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ABSTRACT

The Pennsylvania Charter School Act (H.B. 1834), now under consideration in the Pennsylvania State legislature, allows charter schools to be approved by local school boards or school district voters. Based on the draft legislation and the experience of states with similar statutes, this paper identifies the extent of charter operators' responsibility for the educational program, economic viability, and government operations of public charter schools, and outlines the full set of assets a charter-school applicant should possess to be a successful school operator. The report concludes that a Pennsylvania charter-school applicant must be able to conceive and manage an educational program; start and run a medium-sized business; operate within a complex governance structure; comply with the laws controlling agencies of state government; and conduct a political campaign. Guiding principles of charter-school planning are also included. The appendix contains a copy of the Charter School Act. Four figures are included. (LMI)

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What it Takes to Start a Pennsylvania Charter School: A Guide for Applicants

Marc Dean Millot

DRU-1492-IET

September 1996

Prepared for: The Heinz Endowments

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EA 028 152

Preface

This Report describes the capabilities applicants must possess to operate the schools created by House Bill 1834, the proposed Charter School Act now under consideration in the Pennsylvania legislature. It is the first of two papers commissioned by the Heinz Endowments to determine the range of demands the legislation would place on charter school applicants and operators, identify the kinds of professional expertise required to meet those demands, assess the availability of such experts, and suggest appropriate means of supplying technical support.

Based on the draft Pennsylvania legislation and the experience of states with similar statutes, this paper identifies the extent of charter operators' responsibility for the educational program, economic viability and government operations of public charter schools and outlines the full set of assets a charter school applicant should possess to be a successful school operator. The second report, *A Nonprofit Technical Assistance Activity for Charter Applicants in Pennsylvania: Mision, Functions, Capabilities and Plans* (DRU-1491-IET, August, 1996), assesses the extent to which government and the private sector are likely to meet the needs of charter applicants; suggests the mission, functions, and capabilities of a proposed nonprofit Technical Assistance Activity (TAA) for charter school applicants; and provides a framework for planning the development of the new institution.

This study builds on RAND analyses of the needs of individual schools in decentralized school systems, including studies of charter school law, the implementation of the Massachusetts charter school statute and of New American Schools designs; and the results of work on the business side of charter school start-up. It is intended to support individuals and organizations interested in starting charter schools and/or creating a TAA to support implementation of the proposed Pennsylvania charter school statute. It should be of general interest to those following the nacsent charter school movement.

This work was carried out by the RAND Institute on Education and Training (IET) and the joint RAND/University of Washington (UW) Program on Reinventing Public Education.

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Summary

This report is for individuals and groups considering the development of an application to operate a charter school under House Bill 1834, the proposed Charter School Act now under consideration by the Pennsylvania legislature. It examines the broad range of capabilities applicants will need to develop a charter application, receive a charter, and open and operate a charter school. It is meant to be one of the first documents potential applicants examine before they decide whether to pursue the charter school option.

Pennsylvania's Charter School Act

The Pennsylvania Charter School Act allows charter schools to be approved by local school boards or school district voters. They are independent educational programs, have broad authority over economic decisions, and remain responsible for their operation as a government entity. Existing public schools may convert to charter status. Any combination of three or more teachers, ten or more parents or guardians, a nonsectarian college or universty, museums and nonprofit corporations may create entirely new public schools. Regional charter schools may be established by a college, university, museum or nonprofit corporation. Applications for a charter are approved by a local school board or referrendum, and the state Secretary of Education has the right to provide applicants with planning grants and waivers of state education regulations. Approved charter schools are funded on the basis of student enrollment, with the schools receiving a proportionate share of the basic and categorical funds allocated to public education by federal, state and local government. Charters run from three to five years. Regardless of how they are approved, charter schools' operations are monitored by the local board.

The Act provides a broad scope of autonomy for Pennsylvania charter schools and demands that applicants possess an equally broad of capabilities to operate their proposed schools.

• Pennsylvania charter schools are independent educational programs, operating separately from the public schools run by local school districts. Applicants must be able to conceive and manage that program.

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• They are self-reliant economic entities, funded on the basis of student enrollment, with full control over all of the human and financial resources employed at the school. Charter school applicants must be able to start and run a medium-sized business.

• The Pennsylvania statute creates a system of accountability that influences the form and process of a charter school's internal decisionmaking as well as its its relationships with the local school board, the state Secretary of Education, and the community in which it is located. Applicants must be able to operate within a complex governance structure.

• Pennsylvania charter schools are subject to a wide range of laws governing public schools and government institutions. Applicants must be able to comply with the laws controlling agencies of state government.

• The authorization of a Pennsylvania charter schools is a political act. Applicants must be able to conduct a political campaign for charter approval.

A Pennsylvania Charter School Applicant Must Be Able to Conceive and Manage an Educational Program

Pennsylvania charter schools have the attributes of several different types of institutions but, at their core, they are educational programs serving students in one or more of grades kindergarten through 12. The charter approval and oversight process requires applicants to satisfy local education authorities of the quality of the school's educational offering. The charter school funding mechanism demands that the applicant develop an educational program sufficiently attractive to parents and students for the school to be financially viable.

Establishing a new school is a demanding task. Section 6 of the Charter School Act requires those seeking a charter to explain and align the proposed school's mission and goals, student body, curriculum, calendar, assessments, and staff in their application. Applicants must assess student and school performance in ways that meet or exceed state requirements. They also must be able to hire and develop a staff qualified to deliver the proposed educational program. Once the school is up and running, applicants will have to administer a school building - schedule classes, assign students, handle children and parents, set calendars, deal with problems of student transportation and food service, and the hundreds of other issues unique to schools.

Charter school applicants must propose an educational vision, curriculum, and instructional approach that will satisfy both the market and government. They must create an educational program that is credible to educators, attractive to parents and students, and economically sound. To receive a charter, they will have to convince a local school board, the Secretary of Education and possibly a school district's voters that they are capable of operating an autonomous public school.

A Pennsylvania Charter School Applicant Must be Able to Start and Run a Medium-Sized Business

Section 8 of the Charter School Act provides charter schools with a broad set of powers necessary to control their fate as independent economic entities. A charter school may receive and disburse funds, and solicit and accept gifts and grants for school purposes. It may make contracts and leases for the procurement of services, equipment and supplies. It is permitted to incur temporary debt in anticipation of the receipt of funds. Beyond these specific powers, the section gives a charter school "all powers necessary or desirable for carrying out its charter program" and "other powers necessary to fulfill the charter which are not inconsistent with act of State Board of Education regulations. "

The responsible exercise of this economic autonomy requires substantial business expertise. Potential charter school operators must demonstrate their business capacity by describing "the financial plan for the charter school" in the application required by Section 6.

Financial planning is a complex and iterative process. Applicants must considers important relationships among the charter school's educational program, student enrollment, revenues, building, special education needs, and staff.

- The educational program should be designed with a potential student market in mind, including a particular type of student (i.e., at risk, mainstream, etc.) and a particular number of students.

- The program and the type and number of students will generate requirements for specific educational materials and teaching qualifications, and possibly particular facilities.

- Student enrollment will determine the revenues generated by the school.

• Those revenues must be sufficient to pay for the building space chosen as the school's location (including any renovations that may be needed to make the space suitable for use as a school, as well furniture and equipment), and to pay the staff necessary to carry out the chosen educational program and operate the charter school.

• The building should be located somewhere safe and convenient to attract the required enrollment and desired staff.

• The building, the staff, and the educational program will have to accommodate students with special education needs. Some - but by no means all - of the additional costs of these students will be offset by additional revenues received for special needs, so the school's general revenues must be sufficient to accommodate special education.

The proposed budget must assure that the financial aspects of each of these factors add up to an economically viable charter school. After the charter is granted, the applicant must execute that plan, start up the school, and manage an ongoing business operation.

A Pennsylvania Charter School Applicant Must be Able to Operate Within a Complex Governance Structure

Pennsylvania charter schools are public, nonprofit corporations. Subject to the school's charter and the provisions of the Charter School Act, they are governed by a board of trustees who "shall have the authority to decide matters related to the operation of the school, including, but not limited to, budgeting, curriculum and operating procedures," and "to employ, discharge and contract with necessary professional and non licensed employees."

While Pennsylvania charter schools are independent of local school boards in the sense that they have the right to carry out the educational program contained in their approved charter, to hire fire and manage the personnel employed by the school, to employ the financial resources available to the school, and to enter into contracts for real property, goods and services for school purposes, their autonomy is constrained.

• Section 9 of the Act states that charter schools "shall be accountable to the parents, the public and the Commonwealth, with the delineation of that accountability reflected in the charter."

• Section 6 requires that the charter application contain "the proposed governance structure of the charter school, including a description and method for the appointment or election of members of the board of trustees."

• Once a charter school is in operation, it will be subject to the state Sunshine Act's open meetings requirement.

• Section 18 requires that each charter school have an eight member review committee - appointed by the local school board - to hear complaints against the school and make recommendations to the school's board of trustees.

A Pennsylvania Charter School Applicant Must be Able to Comply With the Laws Controlling Agencies of State Government

Charter schools are often characterized as highly flexible and autonomous institutions, operating free from government regulation. Pennsylvania charter schools are free to determine how they will comply with a wide variety of state and federal laws, but they are hardly free of rules and regulation. This fact is highlighted by Section 9, which states that "a charter school shall comply with all Federal and state laws, rules and regulations pertaining to public schools, except where the charter school has received a waiver of State Regulations under this act." Charter school accountability is reinforced by Section 14, which permits the state's Secretary of Education to exempt charter schools from state board regulations concerning public schools, "except those pertaining to assessment, testing, civil rights and student health and safety."

A considerable portion of the Charter School Act involves the specification of particular state laws that charter schools are subject to, including teacher certification, special education, the rules governing the applications process, admissions, facilities, and charter school governance, the prohibition on sectarian operations, charter school liability and immunity, student transportation, audits, civil rights, and employees. Applicants must be familiar with these laws and understand how to satisfy compliance requirements in a broad range of situations.

A Pennsylvania Charter School Applicant Must be Able to Conduct a Political Campaign

Potential charter school operators have no automatic right to a charter in Pennsylvania. Charters are acquired in one of two ways: an affirmative vote

on a charter application by at least five members of a local school board, or a simple majority of school district voters in a public referendum requested by the state's Secretary of Education. Those considering the formation of a charter school must appreciate that the decision to grant a charter is fundamentally a political decision. Thus, to seek a charter is to embark on a political campaign aimed at the local board, the Secretary of Education, and the general voter.

First and foremost, the charter applicant will require an understanding of school board politics in the district where the proposed school will be located. Applicants must know the constituencies, positions, concerns, history and political outlooks of each board member. They should understand the politics of the local teachers' union and the union's individual leaders. They should be aware of important issues facing the school board, including elections, labor relations, school finances, and redistricting. They need to identify teachers who may not be union officials but whom other teachers look to for guidance and leadership. They must understand the local superintendent's outlook , interests and the constraints he or she operates under. They need to identify and understand the district's other political players, such as the PTA, the local League of Women Voters and other community groups active in public education; important employers, foundations and individuals that provide financial support local to local public schools; and other leading institutions of the community. They should understand both the political outlook of those who write editorials and the interests of reporters covering local politics and education.

Guiding Principles for Charter School Planning

Match the scope of autonomy offered to Pennsylvania charter schools with the expertise necessary to exercise that autonomy responsibly.

There is no way that every type of expertise required to operate a charter school can be on the applicant team. The core of the applicant team should consist of generalists with operational experience in education and business, aided by an attorney prepared to develop an expertise in charter school law. The core members should know enough about their area to know what they do not know, to find experts, and to ask the right questions. This core team should recruit experts in such areas as commercial real estate, special education, accounting and financial planning, insurance, and all the other special problems

discussed in this report, and integrate their advice into the charter application.

Realize that the skills required of the applicant group will change during the process of starting a charter school.

The first phase is one of "team building." The potential applicant must find the right people for the Core Team; persuade them to participate; and "network" to identify potential sources of political, monetary, and technical support.

The second phase involves planning and writing the charter application. It is during this phase that the school's management structure will begin to take form. Leaders of the applicant team must manage an organizational structure dependent on consensus to accomplish its goals, yet they must propose a new management structure based on legal responsibility and some degree of role specialization that will assure smooth operation of a real school.

The third phase involves politics and public relations. Applicants must take the proposed school to the local board, the Secretary and the public. They must convince the school board or the voters to grant them a charter.

The fourth phase is one of business management. Someone or a small group will have to make crucial economic decisions about a school building, staff hires, purchases, loans, and contracting for support services. Clear lines of financial authority must be established, and responsibilities delegated with care.

The final phase is one of letting go. The leaders of applicant groups need to be able to distinguishing those areas that can and should be controlled from those that can and should be delegated. They can never give up control where decisions have a direct influence on the school's mission or financial viability. All else should be delegated. As the process continues and as the school and its staff matures more decisions can be given over to others.

View the charter application as a planning tool rather than a "hurdle" on the way to obtaining a charter.

The minimum that needs to be said to obtain a charter might fall short of what needs to be considered to assure a viable school. Applicants should not simply promise more than they know they can reasonably deliver, although a certain amount of hyperbole is inevitable and perhaps even useful as a prod once the school is up and running. Applicants should spend time considering the

principles, philosophy and goals, guiding their school - but they should also delve deeper. Practical matters of cost and feasibility should be considered seriously, and the application revised accordingly.

Think of yourselves as trustees of state's responsibility for public education.

Charter schools are public schools operated by private individuals. Through the Charter School Act, the legislature entrusts private individuals to carry out the state's constitutional obligation to provide public education. Charter school applicants should honor this public trust and recognize its special burdens. The applicant should behave in the same way the law requires of the charter holder. Decisions should be made in the open and the applicants records should be open to the public. Charter schools are a public trust, not an opportunity for private advantage. Policy decisions should always be made in the best interests of the students and the future of the school, not the adults participating in the applicant group.

1. Introduction and Overview

This report describes "what it takes" to start one of the charter schools created by House Bill 1834, the Charter School Act now before the Pennsylvania legislature. It is aimed at individuals and groups who might consider developing an application to operate a charter school under the proposed law. It examines the broad range of capabilities applicants will need to develop a charter application, receive a charter, and open and operate a charter school. The report is intended to serve as a guide to planning and written in layman's terms. It is meant to be one of the first documents potential applicants examine before they decide whether to pursue the charter school option.

The remainder of this section includes a brief introduction to the charter school concept. It describes the "basic bargain" of "autonomy for accountability" contained in charter school legislation and the scope of autonomy the law grants to charter schools, the fact that charter school operators will be held accountable for the responsible exercise of their autonomy, and the operators' need for the capacity to do so. The section then provides an overview of the proposed Charter School Act. Subsequent sections describe capacity requirements in terms of the Act's creation of charter schools as educational programs, economic entities, quasi-governmental agencies, institutions that must comply with laws governing public bodies, and political campaigns. The complete text of House Bill 1834 is contained in an appendix at the end of the report .

Charter School Legislation

At least twenty five states have passed "charter school" legislation empowering agencies of state government charged with public education to contract with private individuals and groups to operate public schools.[1] The agencies with chartering authority vary by state, but include state and local boards of education, special state agencies established solely to implement charter legislation, state universities and community colleges. The statutes allow these agencies to convert existing public schools to charter status and/or

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[1]Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Illinois, Kansas, Louisiana, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, New Mexico, North Carolina, Rhode Island, South Carolina, Texas, Wisconsin, and Wyoming

to create entirely new public schools. The contracts, widely termed "charters," run for as long as fifteen years. As a rule, charter schools are funded on the basis of student enrollment, with the schools receiving a proportionate share of the basic and categorical funds allocated to public education by federal, state and local government.

The "basic bargain" between chartering agencies and charter holders embodied in charter school statutes is "autonomy for accountability." Chartering agencies may give new or converted charter schools control over a set of decisions the legislature has deemed essential to their success as educational institutions. Those holding the charter are accountable to the chartering agency for their performance. Charter holders are also accountable to the market, because their financial viability depends on their ability to attract students.

In some states autonomy is confined to the school's educational program. In these cases, which include states that only permit conversions, the statutes give teachers and parents at an existing public school the legal right to implement a curriculum and instructional strategy approved by the local school board for the term of the charter. Personnel policy, budgets, and other matters of school management remain under the school district's control. In these states, charter schools are accountable for their educational performance. If the program fails to improve student outcomes, the school board may terminate the contract. If the program fails to perform as advertised to parents, the school will lose enrollment. The school's charter status will be in jeopardy if it fails to attract enough students to justify continuation of the program.

In most states, including those that permit the creation of new public schools, charter school autonomy can extend to business decisions, such as the right to hire and fire, contract for goods and services, and lease or purchase real property. In many instances, the chartering agency will negotiate the actual scope of autonomy with the charter holder. These charter schools are accountable for their performance as economic entities as well as for student outcomes. The chartering agency may terminate the charter of a school that fails to maintain financial records consistent with generally accepted accounting procedures, and the market will drive a school out of business if it cannot balance revenues and expenses.

In a few states, particularly those that permit agencies other than local school boards to grant charters, charter schools are essentially independent government agencies. Here the statutes give charter schools the right to implement their approved educational program, control over all economic

decisions, and the powers of a government entity. These schools are accountable to government agencies for their educational and economic performance, and their adherence to standards guiding government decision making processes. Chartering agencies may terminate their charters for a failure to conform with government procurement or "open meetings" laws. The market disciplines schools that violate the due process rights of students by requiring them to pay the costs of defending themselves against lawsuits.

Whatever the scope of autonomy offered by a state's charter school statute, the legislation generally requires that those holding charters exercise their autonomy responsibly and that those seeking charters demonstrate their capacity to do so. Depending on the degree of autonomy offered by the statute, charter applicants must explain their educational program and means of assessing student learning, provide a multi-year business plan, and describe their governance structure. Once they have received their charter, charter school operators must conform to state education standards and tests, permit audits of their financial records by appropriate state agencies, and comply with various state laws governing the operation of government agencies.

Pennsylvania's Charter School Statute

House Bill 1834, the proposed Charter School Act, allows charter schools to be approved by local school boards or school district voters. Existing public schools may convert to charter status. Any combination of three or more teachers, ten or more parents or guardians, a nonsectarian college or universty, museums and nonprofit corporations may create entirely new public schools. Regional charter schools may be established by a college, university, museum or nonprofit corporation. Applications for a charter are approved by a local school board or referrendum, and the Secretary of Education has the right to provide applicants with planning grants and waivers of state education regulations. Approved charter schools are funded on the basis of student enrollment, with the schools receiving a proportionate share of the basic and categorical funds allocated to public education by federal, state and local government. Charters run from three to five years. Regardless of how they are approved, charter schools operations are monitored by the local school board.

The Act provides a broad scope of autonomy for Pennsylvania charter schools. They are independent educational programs, have broad authority over economic decisions, and remain responsible for their operation as a government entity.

Outline of this Report

Pennsylvania charter schools are independent educational programs, operating separately from the public schools run by local school districts. Applicants must be able to conceive and manage that program. Section 2 of this Report explains what must be described in a charter application and the types of expertise needed to develop a credible educational program.

Pennsylvania charter schools are self-reliant economic entities, funded on the basis of student enrollment, with full control over all of the human and financial resources employed at the school. Charter school applicants must be able to start and run a medium-sized business. Section 3 describes the key components of a charter application's financial plan and the business, legal and financial expertise necessary to operate the school.

The Pennsylvania statute creates a system of accountability that influences the form and process of a charter school's internal decisionmaking as well as its its relationships with the local school board, the state Secretary of Education, and the community in which it is located. Applicants must be able to operate within a complex governance structure. Section 4 outlines the structure, identifies areas where the applicant has an opportunity to define decision processes, and discusses the knowledge required to do so.

Pennsylvania charter schools are subject to a wide range of laws governing public schools and government institutions. Applicants must be able to comply with the laws controlling agencies of state government. Section 5 identifies areas not discussed elswhere in the Report where the applicant will require specialized legal support.

The authorization of a Pennsylvania charter schools is a political act. Applicants must be able to conduct a political campaign for charter approval. Section 6 outlines the chartering process and the political and public relations experience required to obtain charter approval.

Section 7 concludes the Report with a discussion of principles to guide applicants in planning their proposed charter school.

2. A Pennsylvania Charter School Applicant Must Be Able to Conceive and Manage an Educational Program

Pennsylvania charter schools have the attributes of several different types of institutions but, at their core, they are educational programs serving students in one or more of grades kindergarten through 12. In brief, a charter school applicant in Pennsylvania must be able to conceive and manage an educational program. The charter approval and oversight process requires applicants to satisfy local education authorities of the quality of the school's educational offering. The charter school funding mechanism demands that the applicant develop an educational program sufficiently attractive to parents and students for the school to be financially viable.

Establishing a new school is a demanding task. The charter school applicant must propose an educational vision, curriculum, and instructional approach that will satisfy both the market and government. The applicant must be able to hire and develop a staff qualified to deliver the proposed educational program. The applicant must assess student and school performance in ways that meet or exceed state requirements. Once the school is up and running, the applicant will have to administer a school building - schedule classes, assign students, handle children and parents, set calendars, deal with problems of student transportation and food service, and the hundreds of other issues unique to schools. To receive a charter, an applicant group will have to convince a local school board, the Secretary of Education and possibly a school district's voters that they are capable of operating an autonomous public school.

Very few of the words contained in the Charter School Act deal with the school's educational program. Three provisions dominate:

• Section 6 requires that charter school applications contain certain information describing the educational program, including : "[t]he grade or age levels served by the school;" "the proposed school calendar for the charter school, including the length of the school day and school year; " "[t]he proposed faculty;" and the school's "mission and education goals, "curriculum" and assessment methods."

• Section 15 requires charter schools to comply with state regulations concerning special education.

• Section 14 permits the state's Secretary of Education to exempt charter schools from state board regulations concerning public schools, "except those pertaining to assessment, testing, civil rights and student health and safety." Section 6 reinforces that waivers cannot be granted from the assessment provisions by requiring that students in charter schools "meet the same testing and academic performance standards established by law and regulations for public school students." Section 6 also requires that the charter school application describe and justify any waivers requested.

In addition, in determining whether to grant charter applications, Section 4 requires local school boards to consider the applicant's capability to provide the proposed educational program , and "[t]he extent to which the charter school may serve as a model for other public schools." The Act does not confine boards to these evaluation criteria, but a board is probably obligated to deny a charter when an application fails to meet one or more of them.

In so far as the educational program is concerned, the nature of the charter applicant's accountability to the market and government overlap but differ. While parents are certainly concerned about their children's educational performance, they may also have other interests that inform their choice of schools. An extended day may coincide with a parent's work schedule. An ethnic or cultural theme may appeal to a parent's sense of identity. A school's location on the way to work or in the neighborhood may influence their choice of school, as may the presence of siblings or friends.

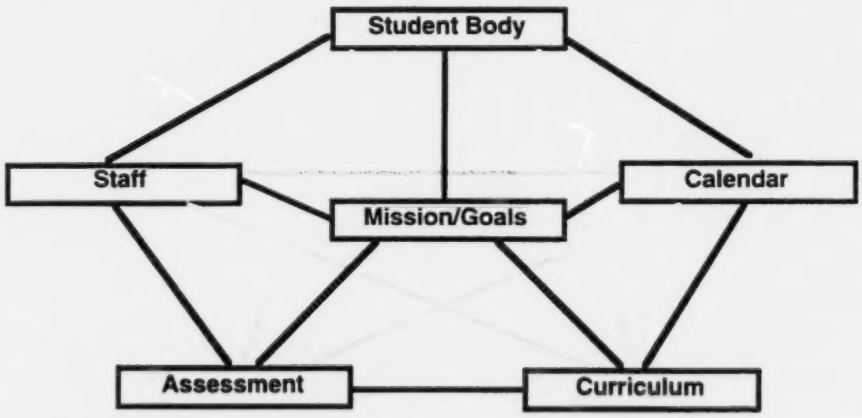
Local school boards remain responsible for assuring the educational performance of all the public schools in their districts, including charter schools. Section 4 of the Charter School Act requires local boards to consider the charter school's suitability as a model for other public schools. Section 21 requires local boards to assure that the school maintains the level of educational performance specified in its charter. Parental interest in the school is likely to play an important role in any board decision on a charter application, but the board's responsibility for the educational quality of district schools should make educational performance the key factor.

Basic Requirements of Section 6

At the core of the proposed charter school's educational program are the requirements of Section 6. To present a high-quality proposal, applicants must

align the school's mission and goals, student body, curriculum, calendar, assessments, and staff. (See Fig. 2.1.) They must create a program that is credible to educators, attractive to parents and students, and economically viable. Few applicant teams are likely to possess a complete set of the broad array of skills and expertise necessary to meet these goals. Most will have to draw upon outside experts for at least some support.

Fig. 2.1. Important Relationships Among the Educational Program Requirements Specified in Section 6



Mission and Goals

A charter school starts with a vision of what it means to be educated, what a student must know to live and grow in today's society, and to contribute to it; how students learn; the role of a teacher in a public school and of a public school in the community; and the values that society should pass on to the next generation through the public school system.

Developing this vision requires knowledge of both substance and process. The substance includes an understanding of state and national standards defining what students must know and the skills they must master to progress through and graduate from grades k through 12, the expectations of major employers and the needs of students and parents in the community where the proposed charter school will be located, and the current state of academic research on learning and teaching. The knowledge of process centers on skills and techniques to facilitate the development of a common understanding of the mission within the applicant group. Together with the maintenance of financial viability, fidelity to the proposed school's mission should serve as the basis for all

subsequent decisions related to the charter proposal and operation of the approved charter school. When hardships arise, as they surely will, it will be vitally important that all the key members of the applicant group, the school's supporters, and the parents of children attending the school understand and share a common vision of the school's mission and goals.

Student Body

Section 6 of the Charter School Act requires that the charter application include "[t]he admission policy and criteria for evaluating the admission of students which shall comply with the requirements of section 11." Charter schools may enroll nonresident students from non signatory districts, and districts shall allow the students to enroll, but the application must specify the terms and conditions of enrollment.

Section 11 prohibits charter schools from the use of admissions criteria based on race, ethnicity, disability, proficiency in English, intellectual or athletic ability, measures of achievement or aptitude, or any other basis that would be illegal if used by a school district (and so perhaps prohibiting admissions policies based on gender). However, Section 11 also allows a school "to limit admission to ... areas of concentration such as mathematics, science or the arts" and to "establish reasonable criteria to evaluate prospective students." If the number of students eligible to attend a charter school exceeds the capacity of the school, attendance must be determined by lottery. Section 16 prohibits the solicitation of gifts as a condition of enrollment or attendance in a charter school.

Understanding the legal limits of these bases of admissions is important, but the Act gives the potential charter school operator some opportunity to define the student body that will be served by the school. Moreover, while charter schools may not discriminate in their admissions for the reasons described above, they are free to develop educational programs tailored to particular types of students. A Pennsylvania charter school probably cannot make gender a condition of admissions, but it can offer an educational program designed to support teenage mothers. A charter school cannot discriminate on the basis of race, but it can emphasize African-American culture in its educational program.

Whatever the educational program, potential charter school applicants need to do some market research and align the school's offering with the needs of the student body and the parents it hopes to serve. The school's mission, its curriculum, the length of its school day and school year, and its staff should be developed to fit the market. A school aimed at students from an economically

disadvantaged community of recent immigrants should have a strong capability in bilingual education. A very high proportion of its staff, including the principal, should be able to communicate in the parent's first language. A program aimed at children in families where both parents are employed full-time should have an extended school day that coincides with the work day. A school that will attract students classified as disabled - or just under the threshold of that classification, should have a staff prepared for those kinds of students. A school aimed at the mainstream student should be able to demonstrate attractive features that will distinguish it from district schools in the eyes of enough parents to make the school financially viable. Those planning an educational program based on Montessori or Waldorf principles, or the Core Knowledge curriculum, should make sure that there is sufficient demand for such a school in the community.

The extent and sophistication of this market research should vary. A proposed school for 600 at-risk teenagers drawn from across a major city may demand more research than one for 25 students. A school that must take half the middle school students from an affluent suburban town may justify more research than a school for elementary school aged children of the Latino community in a district that has ignored their needs. A survey may be justified for a large school that will contract all of its educational program to a for-profit Education Management Organization, such as the Edison Project or Sabis International. A community meeting will probably suffice for an existing public school considering conversion to charter status. But even where the demand is "obvious" to everyone, the potential charter school applicant should research the target market's needs and expectations - if only to show the local school board, the Superintendent and the public that the school is a viable enterprise with community support.

Calendar

The school calendar is one area where a charter school can distinguish itself from public schools run by the district. Charter school operators may be able to set a longer school day and a longer school year than the district could under prevailing union contracts. A longer day and year allow the charter school to offer more instructional hours, which can be used for additional time on task in core subjects, to add field trips and other off-campus learning opportunities, to deepen a school's offerings in music or the arts, or to extend the curriculum into less traditional areas such as community service. A longer day and year may be particularly appealing to families with two wage-earning parents who are

concerned about leaving their school-aged children unsupervised after school lets out for the day and vacations, and who find day care a hardship.

But the longer day and year is not without cost. More hours in the school building increases utilities and maintenance costs. A longer day and year may require the school to raise staff salaries to attract quality teachers, administrators and support personnel. If the school does not increase pay levels, it may be forced to rely on relatively young staff with limited experience, or experience high staff turnover. Funds spent on teachers are funds not spent on something else, such as renovations, equipment and materials. At some point, the charter applicant will need to subject the proposed educational program to a financial analysis, and recognize and resolve key economic tradeoffs among such matters as the school calendar, salary levels and teacher experience.

Curriculum

The basic service provided by schools is the education of students. Curriculum and the instructional materials and teaching methods that go with it are the principal means by which that service is delivered. Pennsylvania charter applicants may develop their own curriculum from the ground up, they may purchase materials and training for all or some of it from for-profit and non-profit developers, or they may contract with a profit or nonprofit firm to provide the school's basic service directly to students.

The choice among these options depends on the capabilities and desires of the potential charter school operator. The school of education at a college or university may see the charter school as an opportunity to create a "laboratory school," developing curriculum, materials and instructional strategies is well within its capacity. A social service organization with a history of community service related to education, including perhaps worker training or pre-natal education, may be able to contract with a design-based assistance organization (such as one of the design teams funded by the New American Schools Development Corporation) to train its staff to implement a particular curriculum. A school that finds itself with many students below their grade level in reading or math may hire a firm like Sylvan Learning to take on that specific part of the curriculum aimed at improving math or reading skills. A charter school started by parents probably will need to delegate the responsibility for curriculum development to the teaching staff it hires to operate the school, or to firms like Sabis, Edison, Alternative Public Schools, or Advantage Schools, contracted to operate the school's educational program.

Whatever approach is taken, the school's curriculum must be consistent with its mission, meet the needs of the student body the school hopes to serve, fit the capabilities and training of the teachers hired to use it, coincide with the school's calendar, and support the kinds of student assessments the school will use to demonstrate educational performance. Assessing the extent of consistency across these dimensions requires professional expertise in the design and development or use of educational programs. Just as a prospective charter applicant should ask an attorney to review the proposal for compliance with the law and a financial analyst to assess economic viability, an educator should be consulted to examine the credibility and appropriateness of the curriculum.

Assessment

Section 6 of the Charter Schools Act requires that "students in charter schools meet the same testing and academic performance standards established by law and regulations for public school students." This establishes a baseline against which a proposed educational program will be judged. Charter school applicants are permitted to adopt additional expectations of what students should learn and employ additional means of assessing student performance, but they must use those the state requires for other public schools.

Proposed curriculum must be assessed in terms of the state's tests and standards, and adjusted to meet state requirements. A proposal with curriculum that is inconsistent with state standards is likely to be rejected by the local school board, looked on with disfavor by the Secretary, and rejected by the voters. Should the application be approved as is, the failure of the new charter school's students to meet state academic requirements will cause the school to lose students and serve as grounds for termination of the charter. For these reasons, an applicant group may find it necessary to supplement its chosen curriculum with additional materials and even to reject an otherwise attractive curriculum because it does not match well with the state requirements.

Assuring that the proposed curriculum is aligned with state standards and assessments may require the expertise of a professional educator with relevant experience. In addition, when a potential charter school applicant is considering contracting out for all or part of its educational services, the organization seeking the contract should be required to demonstrate how its curriculum aligns with state requirements.

Staff

Section 6 requires that a charter applicant describe "the proposed faculty." This wording could be interpreted to mean that the applicant will be expected to name specific individuals. Alternatively it could mean that the application must contain job descriptions and qualifications for faculty positions. The validity of the first interpretation is bolstered by the fact that Section 13 requires applicants to submit as part of their application "reports of criminal history record information" and "official clearance statements regarding child injury or abuse" on all employees and volunteers who will come into contact with students. In either case, applicants will be required to have a solid grasp of how the faculty relates to the rest of the educational program.

Section 13 states that at least 75% of professional staff shall hold appropriate Pennsylvania certification. The local school board may, at its discretion, choose to allow a charter school to permit up to 25% of the professional staff to teach without certification. The charter school has no right to this waiver of state law, nor may it obtain the waiver from the Secretary or by the referendum.

The administrators and support staff, as well as the teachers, hired to run the proposed charter school must be qualified to fulfill its mission, teach its curriculum, and meet the demands of its calendar. Moreover, because the charter school will be a new venture with all the chaos and uncertainty that status implies, the staff must be enthusiastic, resourceful and flexible. If the applicant group plans to contract out the entire educational program, it will need contractual assurances that the staff will be competent in all these respects. If it plans do operate the school itself, the applicant group will need the skills and expertise necessary to staff the school properly.

Special Education

Section 15 requires that charter schools comply with state regulations concerning special education. The school will require access to staff qualified to identify a potential special needs student, administer appropriate assessments, diagnose the student's special needs, develop an individual education program to meet those needs, and deliver the program to the student. Assuring compliance requires several distinct areas of specialized expertise, including special education administration, diagnostics, pedagogy and law. This report will not explain the special education expertise required by a

charter school, but applicants should realize that administering special education can be expensive and ought to be thought through in advance.

While it is likely to be the case that the parents of children with acute physical or cognitive disabilities will avoid the charter school when they realize that the support their child needs can only be met by the school district, the stories of charter school operators across the country suggests that charter schools may be attractive to parents with children whose needs are less demanding or who fall immediately below the state's threshold for special needs designation. Charter schools often adopt concepts and terminology developed by the special education community - the idea of an individualized education program, for example. They also often consciously project the image of a loving, caring, sympathetic, non-bureaucratic institution. Parents with children who meet or barely miss the special needs criteria seem to find these schools appealing.

The charter school that keeps the requirements of special education in mind from the start can take actions that minimize potential costs. When hiring staff they can ask for special education certification. When considering alternative curriculum they can examine their use in the special education setting. When developing admissions policies they can consider means to support the early identification of students with special needs. They can estimate the likely size and nature of the special needs component of the student body and arrange for ways to serve those students.

Because of the social stigma attached to disabilities and the arcane nature of modern special education law and practice, it is a neglected area of charter school planning. The potential charter applicant need not be an expert in special education, but the applicant group does need to seek out such expertise.

Waivers from State Regulations

Section 14 allows the Secretary to exempt charter schools from state board regulations concerning public schools, "except those pertaining to assessment, testing, civil rights and student health and safety." (With regard to civil rights Section 9 prohibits a charter school from unlawful discrimination in admissions, hiring or operation.") Section 6 requires that the charter school application describe and justify any waivers requested. Under Section 14, the waivers granted become part of the school's charter.

In theory, these provisions allow a charter applicant greater flexibility than traditional public schools. In practice, they require that an applicant have a

solid grasp of the proposed educational program, state regulations, and the effect of regulations on the applicant's ability to implement the program and fulfill the school's mission. Because waivers become part of the charter and the charter is approved by a specific process with very little flexibility, the applicant must come to this appreciation before the school begins its operations. The Charter School Act places a heavy burden on applicants to understand the effect of the regulations on the charter school's success.

Gaining an understanding of the relationships between the regulations and the educational program is an iterative and mulitidisciplinary process. Lawyers and educators will need to work together closely.

School Administration

A school is more than an educational program, it is a peculiar administrative problem. Assuming a charter is granted, the applicant will have to manage the full range of activities related to school buildings - including scheduling classes, assigning teachers and students, handling disciplinary matters, making decisions about children and parents, dealing with problems of student transportation and food service, and the hundreds of other issues unique to schools.

Someone - a "lead teacher", "headmaster," "rector", "chief education officer", or "principal"- will have to run the school building. Choosing that person will be the applicant group's most important personnel decision, and perhaps the decision most important to the ultimate success of the charter school. The school's principal will be the vital link between the charter school and the rest of the public school system, the school's board and staff, the teachers and the parents, and the school and the community at large.

Because the business of schools is education, the charter school's principal should be an educator. Because the charter school will be a new venture, the principal should be someone with experience administering a school. To the extent that a charter school is legally, financially, and administratively independent of the school district in which it is located, someone with experience as a private school principal may have advantages over a former public school principal. But to the extent that a charter school is a public school with peculiar rules concerning the rights of students and teachers and the duties of public school officials, a former public school principal has advantages over an individual with experience in private schools. Because

charter schools have attributes of both private and public schools, a former principal with experience in both settings may be the best choice.

3. A Pennsylvania Charter School Applicant Must be Able to Start and Run a Medium-Sized Business

Section 8 of the Charter School Act provides charter schools with a broad set of powers necessary to control their fate as independent economic entities. A charter school may receive and disburse funds, and solicit and accept gifts and grants (and under Section 16 may receive, hold, manage and use trusts and other bequests) for school purposes. It may make contracts and leases for the procurement of services, equipment and supplies. It is permitted to incur temporary debt in anticipation of the receipt of funds. Beyond these specific powers, the section gives a charter school "all powers necessary or desirable for carrying out its charter program" and "other powers necessary to fulfill the charter which are not inconsistent with act of State Board of Education regulations. "

The responsible exercise of this economic autonomy requires substantial business expertise. Potential charter school operators are required to demonstrate their business capacity by describing "the financial plan for the charter school" in the application required by Section 6. After the charter is granted, the applicant must execute that plan, start up the school, and manage an ongoing business operation .

Financial Planning

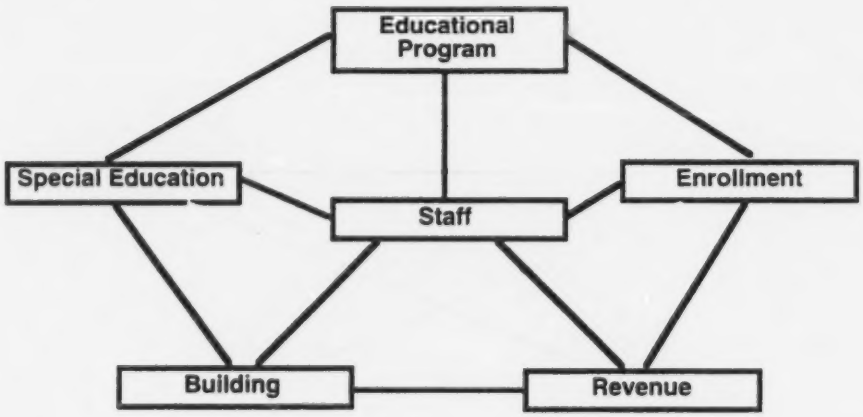
Potential applicants should not approach development of the financial plan with a "compliance mentality;" i.e., they should not treat it only as something that must be in the application. Instead, the financial plan should be considered one of the applicant's most important conceptual tools. It should be recognized as the monetary expression of the group's vision of the charter school and a reflection of its real priorities. The financial plan, or budget, is a means of identifying critical policy issues, reconciling conflicting priorities, and integrating the various activities of the applicant group.

Charter school planning will inevitably lead to a division of labor within the group. Subcommittees or individuals will become responsible for identifying a building site, researching prevailing salaries for school staff; exploring the

possibility of contracting out services from payroll to food to instruction; and developing a school curriculum. Working in terms of a budget imposes an important degree of realism and discipline on the process of developing a charter application, and an antidote to what can become endless abstract, philosophical discussion over issues related education, governance or personnel policies. Financial planning is concrete and practical; if the budget does not generate a surplus, or balance expenses and revenues, the applicant group will not receive a charter.

Financial planning for a Pennsylvania charter school is complex and iterative. An extended review is beyond the scope of this report. To illustrate the general process, this portion of the Report considers important relationships among the charter school's educational program, student enrollment, revenues, building, special education needs, and staff. (See Fig. 3.1.) The educational program, student enrollment, special education needs, and staff have been discussed elsewhere in this report. The charter school's building and revenues are covered here, followed by a brief review of how all these factors interrelate.

Fig. 3.1. Important Financial Relationships of a Charter School



The School Building

Section 10 states that charter schools may be located in any "suitable location" and exempts them from public school facility regulations, except those pertaining to the health and safety of pupils. Charter applicants are required by Section 6 to include in their application the "description and address for the

physical facility in which the charter school will be located." Under Section 8, the school may acquire property from public or private sources by purchase, lease, lease with an option to purchase or gift for use as a school facility." But Section 10 prohibits the use of public funds to construct the facility.

Finding a suitable facility is likely to be one of the most difficult tasks faced by the potential applicant. School districts across the country have not proved ready and willing to make space available. Nonprofit community institutions, such as the YMCA/YWCA, may not have space. Vacant parochial schools may not be located where the applicant hopes to open a school; and if the prohibition on the "display (of) religious objects and symbols on the premises of the charter school" in Section 9 extends to the architectural details integral to many Catholic school buildings, the conversion of these schools could be costly. (Assuming the local diocese is prepared to allow the symbols to be covered or defaced.) Commercial buildings will almost certainly have to be renovated to create classrooms and other school facilities; these renovations will have to conform to general building codes and provide access for handicapped persons; and, depending on the extent of renovations required, the prohibition on the use of public funds to construct charter school facilities may require the party selling or leasing the facility to bear the costs before turning the property over to the charter school.

Locating suitable space, considering the need for and cost of renovations, determining the applicability of zoning and building codes, and negotiating the lease or and purchase of real estate, requires professional assistance. The charter school applicant should seek out the services of commercial real estate agents, building inspectors, general contractors, real estate financiers, and attorneys with a practice in real property.

Revenues

Section 11 of the Act prohibits charter schools from charging tuition to students who reside in the district where the school is located or in a signatory district in the case of a regional charter school. Charter schools' may receive and use grants, gifts, and other bequests of money, but their principal source of revenue will be payments made by school districts based on enrollment.

Section 16 states that a charter school's payments are based on the average number of students enrolled in the school according to formulae codified in law. Section 16 also states that a charter school's revenues shall be a proportionate share of payments for students "on whose behalf the district received payments" per section 2509.5 of Public School Code (P.L. 30, No. 14, March 10,

1949), and a proportionate share of federal funding for special education services.

For students residing in the district where the charter school is located (as defined by sections 2501 and 2561 of the Public School Code) charter schools will be paid this proportionate share. Initially, the other school districts sending children to the charter school will pay the same dollar amount as the district where the school is located. Subsequently, they will pay the lesser of the proportionate share for their students or of the district where the charter school is located.

Section 4 states that the local school board and charter school's board of trustess shall establish a payment schedule for school district funding, with the initial payment due by the first day of classes of charter school's first year. Because the charter school lacks bargaining power, this provision insures that its cash flow situation will be up to the local school board.

The Integrated Plan

The educational program, the core of the charter school operation, should be designed with a potential student market in mind, including a particular kind of student and a particular number of students. The program and the kind and number of students will generate requirements for particular materials and teachers, and possibly particular kinds of space. Student enrollment will determine the revenues generated by the school. Those revenues must be sufficient to pay for the building space chosen as the school's location (including any renovations that may be needed to make the space suitable for use as a school, as well required furniture and equipment), and to pay the staff required to carry out the chosen educational program and operate the charter school. The building should be located somewhere safe and convenient to attract the required enrollment and desired staff. The building, the staff, and the educational program will also have to accommodate students with special education needs. Some - but by no means all - of the additional costs of these students will be offset by revenues received for these students, so the school's general revenues must be sufficient to accommodate special education. The proposed budget must assure that the financial aspects of each of these factors add up to an economically viable charter school.

Starting and Managing the New Business Operation

After the charter is granted, the new charter operator will begin to implement the financial plan. Leases for school facilities and perhaps equipment (e.g., copy and fax machines, computers, telephone systems) must be negotiated and signed. Contracts may be let to install fixtures, paint classrooms and hallways, purchase books and classroom materials, and to provide for accounting, meal and payroll services. A principal, business manager, and other staff must be hired.

Because the schedule of payments to charter schools will be dictated by local school boards and start-up expenses are bound to be quite substantial, the maintenance of tight financial controls will be essential to the school's initial economic viability. During this period, a finance committee of the charter school's board of trustees should probably control major expenditures directly so that the school stays within the proposed budget. After start-up, financial management can be delegated to the school's administrators. Both during and after start-up, however, the charter school needs access to professionals with business management expertise. Where the annual payment to a charter school is $5000 per student, a charter school of 200 students is a million dollar enterprise, and those managing the schools should have entrepreneurial experience in a business venture of comparable scope. The school will require up to date bookkeeping services and access to an accountant.

4. A Pennsylvania Charter School Applicant Must be Able to Operate Within a Complex Governance Structure

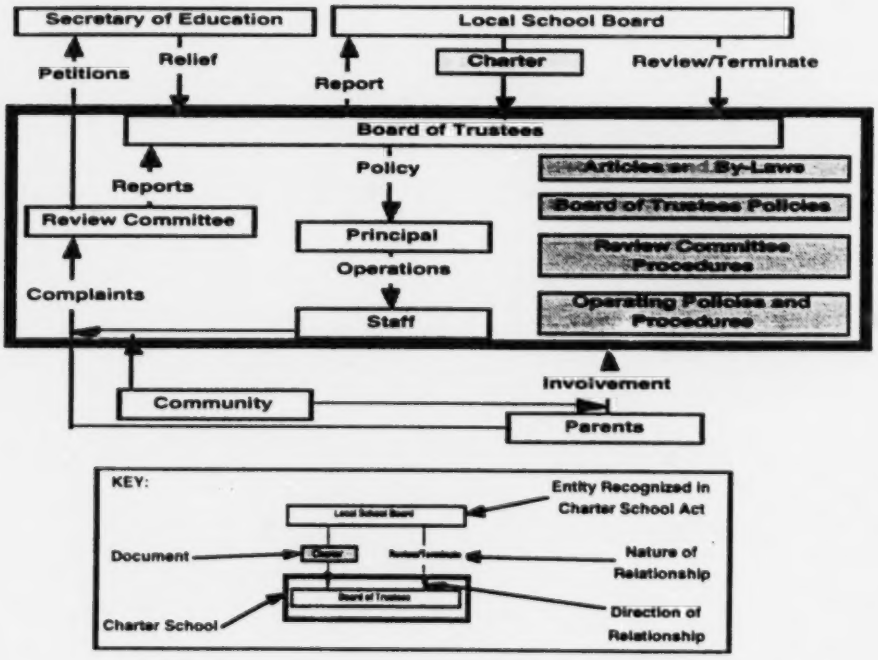
While Pennsylvania charter schools are independent of local school boards in the sense that they have the right to carry out the educational program contained in their approved charter, to hire andfire the personnel employed by the school, to employ the financial resources available to the school, and to enter into contracts for real property, goods and services for school purposes, their autonomy is constrained by the terms of their charter and the Charter School Act. Section 9 of the Act states that charter schools "shall be accountable to the parents, the public and the Commonwealth, with the delineation of that accountability reflected in the charter." To manage a charter school, applicants must be able to operate within a complex governance structure, diagrammed in Fig. 4.1. In some instances the nature of charter school accountability is defined by the Act, in others the charter applicant has some opportunity to define that relationship for itself.

Self-Governance

Section 3 establishes that Pennsylvania charter schools are public, nonprofit corporations. According to Section 12, subject to the school's charter and the provisions of the Charter School Act, they are governed by a board of trustees who "shall have the authority to decide matters related to the operation of the school, including, but not limited to, budgeting, curriculum and operating procedures," and "to employ, discharge and contract with necessary professional and non licensed employees." Section 6 requires that the charter application contain "the proposed governance structure of the charter school, including a description and method for the appointment or election of members of the board of trustees." Under Section 9 the charter applicant must develop and implement strategies for meaningful parent and community involvement. Once the school is in operation, it will be subject to the state Sunshine Act's open meetings requirement.

In addition, Section 18 requires that each charter school have an eight member review committee to hear complaints against the school and make recommendations to the school's board of trustees. The composition of this panel is defined in the act. Two members will be drawn from the local school board and six appointed by it. Of these six, two must be charter school teachers, two must be the parents of children attending charter schools, and two must be charter school administrators. The Act does not require that the six be affiliated with the charter school in question, but a local school board will have few other options with the first schools. "Complainants" who are not satisfied with the board's response have the right to petition the Secretary of Education for relief.

Fig. 4.1. Governance Structure of Pennsylvania Charter Schools



The Board of Trustees

The charter applicant has great flexibility in designing the structure of the charter school's self governance. Local school board members are prohibited

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from serving on the charter school's board of trustees. Otherwise, the size and composition of the board, and the terms and means of selecting board members, is a matter of choice. Similarly, the applicant decides whether the board of trustees will reserve certain powers to itself or delegate them to an executive committee or some other charter school official, whether decisions on certain issues will require a super-majority vote, and the frequency of required board meetings. It appears that applicants may choose to formally organize the school as a nonprofit corporation under Pennsylvania law - in which case the structure of self-governance will be contained in legally binding articles of incorporation and by-laws and incorporated into the charter by reference in the charter application, or to treat the charter as the document that gives the school its nonprofit status - in which case the details of the "proposed governance structure" contained in the application will serve the same purpose as articles of incorporation and by-laws.

Applicants are also given substantial leeway in how they meet, design and implement the statutory requirement for "meaningful" parent and community involvement. The obligation might be satisfied by reserving seats on the board for parents and community members. It might be satisfied by devising a formal process for gathering data about parent and community needs and interests, and considering that data at board meetings. It might be met by designating the principal or a board member as the school official responsible for assuring parent and community access. These are just a few possibilities and less formal options might be sufficient.

Potential applicants need to understand that whatever system of internal governance is devised, it will become part of the charter, and thus legally binding on the operational charter school - and could be difficult to change. Like the waivers discussed in the Section of this report covering a charter school's educational program, internal governance is something an applicant group needs to consider seriously before submitting an application. Lawyers are essential to the deliberative process leading to the development of this system - they can supply important language and concepts, draw on a considerable body of practical knowledge about the governance of boards and corporations, and provide models. But governance is too important to leave to the lawyers. The system devised must support the school's mission and educational program, and the applicant's vision of the school in operation. All key members of the applicant group should be involved in these discussions.

Open Meetings

The charter applicant has no discretion in the choice of rules governing the trustees' deliberative process. Once the school is in operation, Section 9 makes the board of trustees subject to the state Sunshine Act's open meetings requirement (P.L.388, No.84, July 3, 1986). The details of this statute are beyond the scope of this Report, but potential applicants should be aware of its basic demands.

The open meetings provisions of the Sunshine Act cover "official actions" discussed or taken by a quorum of the charter school's board of trustees. Closed meetings may be held for a limited number of reasons, including: employment issues, unless the employee in question demands an open meeting; collective bargaining strategy; discussions concerning the lease or purchase of real property; consultations with attorneys or advisors on litigation; and to maintain a confidence or privilege protected by law. All other actions must be taken at an open meeting. The public must be given at least 24 hours notice of the meeting in a newspaper of "general circulation" in the jurisdiction where the school is located, and a "reasonable opportunity to participate." Written minutes of the meetings must be kept and made available to the public, and members of the public have the right to record the meeting with audio or videotape. Decisions taken at an unauthorized meeting are void, and individuals with an interest in the school may bring suit in Commonwealth Court to have such decisions declared void.

The board will need legal guidance to understand these rules and the constraints they place on board members. But it is even more important that individual trustees adopt the incorporate the spirit of the open meetings law into their personal system of ethics. Decisions are to be made in public meetings following public discussion, and not in the course of an informal gathering of a majority of the board attending a social occasions, and certainly not in secret at a board member's home.

The Review Committee

The charter applicant has little control over the review committee, and it will have enormous influence on the charter school. The committee's jurisdiction appears to be unlimited, and might cover problems raised by adjacent property owners, parents upset with the way a school disciplined a student, and employees with grievances against school managers. Although the committee can only report its findings and recommendations to the charter school's board

of trustees, these are bound to carry substantial weight. The committee will be part of the charter school, but a creature of the local school board, and its deliberations will certainly feed into the school board's oversight of the school. Through actions taken by the review committee, the Secretary of Education could become involved in charter school operations.

At first, review committees will almost certainly consist of a majority of persons affiliated with the charter school it oversees. This precedent may or may not hold as a school board authorizes more charter schools. However, the law does not require the local school board to appoint members of the charter school's board of trustees to the review committee and those with grievances against the charter school will try to play the committee against the trustees. The review committee's work will give the school board members who sit on the committees work opportunities to observe the inner workings of the school and the trustee's relationships with parents, staff and the community. Developing a constructive relationship with the review committee will be one of the trustees most important responsibilities and an ongoing activity. A relationship of mutual trust and respect will strengthen the school. One characterized by suspicion and scorn will destroy it.

Management of School Operations

The Charter School Act does not require the charter applicant to describe how the school's operations will be managed, but a school's description of staff responsibilities, personnel policies, financial management procedures and the like also form part of its governance structure. Some of these areas, such as student discipline and the means of accommodating persons with disabilities, are constrained by state and federal law. Others, such as financial auditing policies, are defined in the Charter School Act. Some, like personnel or whether the school will separate traditional school administration functions from those related to financial management, are largely up to the applicant. Whatever constraints exist, policies should be documented by the trustees or the principal.

In many, cases specialized expertise will be required to draw these up, but manuals and software packages with model policies, forms, and manuals are readily available. Applicants will need to research the list of areas that will require policies and documentation, acquire models, and consult experts. Applicants need to remember that in most cases they will be held to their policies and should consider the content and implications of the words they choose with some care.

Accountability to the School Board

Whether the charter application was approved by the local school board or the voters, charter schools - and specifically the school's board of trustees, are accountable to the local school board for adherence to the terms of their charter and the requirements of the Charter School Act.

The nature of charter school accountability to the local board is specified in Section 20. The charter school is required to provide an annual report to the local board and the state Secretary of Education no later than August 1, in a form prescribed by the Secretary. The local board must be given "ongoing access to the records and facilities of the charter school to ensure that the charter school is in compliance with its charter and that state board regulations concerning assessment, testing, civil rights and student health and safety are being met." Based on information obtained by these and such other means as the review committee, the local board is required to "annually assess whether each charter school is meeting the goals of its charter." In addition, it must "conduct a comprehensive review prior to granting a five year renewal of the charter."

Section 21 provides the local school board with the power to revoke or not renew charter for material violations of charter; a failure to meet charter's student performance requirements or generally accepted standards of fiscal management; a violation of the Charter School Act or of laws the charter school has not been not specifically exempted from; and acts of fraud by the school or its board of trustees against the local board. Where health or safety of a school's pupils or staff is at serious risk, the local school board may take immediate action to revoke a charter.

Potential charter school operators are not required to address accountability to their local school board in their applications, but they should consider how they would meet the Act's requirements. Developing procedures designed to demonstrate compliance with the charter and the Act should be a priority of every applicant. Where they expect their charter to be rejected by the board and approved by referendum - and applicants can expect the board to scrutinize charter school operations, it will be particularly important to develop procedures that ensure timely and accurate annual reports, well-organized records, and the reasonable "ongoing access " of school board representatives.

5. A Pennsylvania Charter School Applicant Must be Able to Comply With the Laws Controlling Agencies of State Government

Charter schools are often characterized as highly flexible and autonomous institutions, operating free from government regulation. Pennsylvania charter schools are free to determine how they will comply with a wide variety of state and federal laws, but they are hardly free of rules and regulation. This fact is highlighted by Section 9, which states that "a charter school shall comply with all Federal and state laws, rules and regulations pertaining to public schools, except where the charter school has received a waiver of State Regulations under this act." Charter school accountability is reinforced by Section 14, which permits the state's Secretary of Education to exempt charter schools from state board regulations concerning public schools, "except those pertaining to assessment, testing, civil rights and student health and safety."

A considerable portion of the Charter School Act involves the specification of particular state laws to which charter schools are subject. Many of these laws are discussed in other Sections of this Report, including teacher certification, special education, the rules governing the applications process, admissions, facilities, and charter school governance. This section covers additional rules and regulations and the expertise a charter school must have access to remain in compliance, including the prohibition on sectarian operations, charter school liability and immunity, student transportation, audits, civil rights, and employees. Charter school applicants will require access to specialized legal expertise in each of these areas.

Religious Affiliation

Charter schools are not explicitly prohibited from affiliation with religious institutions, but their relationship is highly constrained. Section 9 prohibits the schools from providing "any religious instruction." Religious objects and symbols may not be displayed on the premises of the charter school. Moreover, charter schools must be nonsectarian "in all operations." For a parochial school to convert to a charter school, school operations would have to come under the

full control of a nonsectarian board of trustees; religion classes would be removed from the curriculum and perhaps even after-school activities; admissions and employment could not be based on religious affiliation; the crucifix, religious statuary and stained glass would have to removed from the building, including symbols built into the fabric of the school structure.

The extent to which a nonsectarian charter school could draw on the resources of a religious institution is not entirely clear. The diocese or parish could provide a school building; Catholic priests, brothers and nuns could teach non-religious subjects; and courses on philosophy, morals or culture might include a discussion of Catholicism. Whether the school could make use of a cafeteria in the basement of the church across the street, how many members of the clergy could be part of the teaching staff, whether clergy could serve as principal or on the board of trustees, and how much of the morals course could be taken up by Catholicism is unclear.

Freedom of Expression

Section 9 prohibits a charter school from "advocat(ing) unlawful behavior." As written, the prohibition is covers a very broad range of activities, from drug use to sodomy, from civil disobedience to speeding. The extent to which the school could be held responsible for the activities of a teacher discussing homosexuality or civil disobedience, and the extent to which the prohibition violates Constitutional protections of speech is unclear.

Liability and Immunity

The Pennsylvania Charter School Act treats the schools as government agencies, with the same degree of sovereign immunity. Section 8 allows charter schools to sue and be sued, "but only to the same extent and upon the same condition that a public entity can be sued." For the purposes of tort liability, Section 19 states that "employees of a charter school shall be considered public employees and the board of trustees shall be considered a public employer." The extent to which the school and its employees will be held financially responsible for injuries sustained by students, employees and guests is a matter of Pennsylvania law well beyond the scope of this report. However, applicants should understand the possibility of lawsuits in this area; examine the extent to which the school's educational program and school management procedures risk liability; and adopt risk management strategies, including the purchase of insurance. This area requires coordinated discussion among the educators

designing the school's curriculum and extra-curricular activities, school administrators, the school's lawyers, and the school's insurance broker.

Student Transportation

Student transportation is often a problem for charter schools. Their student bodies are drawn from across and even beyond the school district in which they are located, their school days and school years are often longer than the rest of the district's schools, and their educational programs may involve substantial off-campus activities. Section 17 of the Pennsylvania Charter School Act states that charter school students in the district where the school is located "shall be provided transportation to the charter school on the same terms and conditions as transportation is provided to students attending schools in the district." Nonresident students are provided transportation under section 1361 of the Public School Code. Districts providing transport to schools in other districts eligible for payments under section 2509.3.

The meaning of "the same terms and conditions" is a matter of interpretation. School districts generally prefer this to mean the terms of the current transportation contract, a definition that requires charter school students to make use of the existing bus routes and schedules, which may not fit well with the charter schools schedule. Charter schools would prefer a definition that focuses on the quality of the transportation service, which would require the district to provide bus service to charter schools which is no less convenient for charter school students than it is for students attending the other schools.

Audits

Section 6 of the Act requires that charter applications include "the provisions for auditing the school under the provisions of section 437 of the Public School Code of 1949." A description of these provisions is beyond the scope of this report, but applicants should be prepared to generate financial reports in forms that satisfy state requirements, whether or not such forms are useful to a charter school business decisions. The board of trustees of an operational charter school should understand and review those same reports as part of their ongoing oversight duties. Applicants and operators should make use of specialized expertise in government accounting.

Desegregation

Section 23 states that a local school board "shall not approve a charter school application if such charter school would place the district in noncompliance with its desegregation order." Desegregation law is well beyond the scope of this report. Charter applicants need to identify desegregation orders and consent decrees operating in the district where the proposed charter school will be located and perhaps in other districts from which the applicant plans to draw students. Where desegregation is an issue, applicants will require legal advice to help fashion an application that would not place the district in noncompliance.

Student Discipline

The U.S. Constitution guarantees that public school students cannot be deprived of their right to a public education without due process of law. Charter applications must contain a description of the "procedures which will be used regarding the suspension or expulsion of pupils." The specific constitutional requirements of due process for matters of student discipline are beyond the scope of this Report, but a charter applicant should not propose a process until after consulting with a competent attorney.

Employees

Charter school employees are public employees, a status that confers special rights on staff and creates special obligations. The law of public employees is well beyond the scope of this report, but the Charter School Act identifies several important areas that applicants must understand:

- Charter school employees are public employees and the board of trustees public employers for the purpose of tort liability under Section 19 of the Act.

- According to Section 13, charter school employees shall be enrolled in the Public School Employees' Retirement System and the health benefits plan of the district in which the charter school is located. The state will make the employee contributions to the system and the plan, the charter school will be held responsible for the employer contributions.

- Section 13 authorizes charter school employees to organize under the Public Employees Relation Act (P.L.563, No.195, July 23, 1970). Their bargaining unit must be independent of any other bargaining unit, including one representing

similar employees of the school district. The charter school's board of trustees becomes a public employer required to negotiate wages, hours and working in good faith as defined by the state's public sector labor law.

• Section 13 also places restrictions on charter school employees. Before accepting employment, employees in direct contact with students (and all volunteers) must submit a report of criminal history record information as provided in section 111 of the Public School Code of 1949. In addition, all applicants for employment must submit "official clearance statement regarding child injury or abuse" from Department of Public Welfare as required by 23 Pa.C.S., Ch. 63, subch. C.2. Charter applications must contain these reports.

Applicants require legal advice to understand the full effect of these provisions on charter school operations.

6. A Pennsylvania Charter School Applicant Must be Able to Conduct a Political Campaign

The last four sections demonstrated that charter school applicants in Pennsylvania require expertise or access to expertise in educational programming, business operations, governance, and legal compliance. This section explains that to gain the right to establish their school, applicants also must be able to direct and manage a political campaign. It discusses political aspects of charter school formation, including the political process laid out in the Charter School Act, key issues of political strategy facing charter applicants, and the political skills and expertise that applicants will need.

Potential charter school operators have no automatic right to a charter in Pennsylvania. Charters are acquired in one of two ways: an affirmative vote on a charter application by at least five members of a local school board, or a simple majority of school district voters in a public referendum requested by the state's Secretary of Education. Those considering the formation of a charter school must appreciate that the decision to grant a charter is fundamentally a political decision. To seek a charter is to embark on a political campaign aimed at the local board, the Secretary of Education, and the general voter.

Required Knowledge, Skills and Expertise

First and foremost, charter applicants must understand school board politics in the district where the proposed school will be located. Applicants must know the constituencies, positions, concerns, history and political outlooks of each board member. They should understand the politics of the local teachers' union and the union's individual leaders. They should be aware of important issues facing the school board, including elections, labor relations, school finances, and redistricting. They need to identify teachers who may not be union officials but whom other teachers look to for guidance and leadership. They must understand the local superintendent's outlook, interests and the constraints under which he or she operates. They need to identify and understand the district's other political players, such as the PTA, the local League of Women Voters and other community groups active in public education; important

employers, foundations and individuals that provide financial support local to local public schools; and other leading institutions in the community.

A keen awareness of parent and teacher attitudes is essential where the potential charter operator is exploring the conversion of an existing public school to charter status. Applicants should expect potential conversions to be far more politically sensitive than proposals to start an entirely new school. They should also expect proposals aimed at mainstream students to be more contentious than plans to serve those considered "at-risk" or otherwise disadvantaged.

This knowledge is essential to crafting a charter application with sufficient appeal to gain approval. A deep understanding of local politics allows leaders of applicant groups to identify other potential members of their groups who might carry or turn off important constituencies, suggests potential political coalitions for and against the school, and allows the development of strategies to move fence-sitters into the charter camp or to keep them neutral.

Potential applicants also should learn a great deal about the local media. They should understand both the political outlook of those who write editorials and the interests of reporters covering local politics and education. In the case of newspapers, they should identify the opinion page editor and learn about the length and style requirements for opinion pieces. In the case of radio and television, they should learn about opportunities to appear on public affairs programming, call-in shows, interview programs, and understand the political outlook, style and audience of the programs' hosts. With this information the potential applicant can begin to craft a public affairs strategy designed to get to key media people before the opposition, reach sympathetic audiences, and counter bad press.

Perhaps the most important point to keep in mind is that reporters operate on deadlines and seek controversy. Those who can reach the reporter first with information he or she can quickly turn into hard copy will gain a substantial advantage over those asked to respond to the story the reporter has just written up.

Knowledge of local politics and media is important to the formulation of a political strategy for the charter school, but implementing the strategy requires political skills and expertise. The applicant group must determine how it will present itself and how it will respond - as a unified entity, "the applicant" - to requests for positions, appearances and information. Members of the applicant group will need to develop official positions, research information for use in various fora, draft articles for the opinion page, and

decide who should attend public meetings or participate in interviews. Members will need the discipline to stick to positions agreed by the group, rather than their own personal views.

The applicant group will need a spokesperson, to present the public with a sense of continuity, serve as a reliable point of contact for media and other inquiries, provide an image of group unity. A single spokesperson will also draw together the different strands of the group's public affairs strategy and help provide coherence and clarity to its overall message.

The Political Campaign for A Charter

The formal rules of the political campaign for a charter are spelled out in the Charter School Act, and explained below and diagrammed in Fig. 6.1. as a twelve step process. Only four steps are initiated by the applicant. The eight remaining steps involve decisions or actions taken by the local school board, the Secretary, or the voters. Nevertheless, applicants have opportunities to influence decision makers at each of these steps.

Step 1. Potential Charter Operator Submits a Planning Grant Application to the Local Board

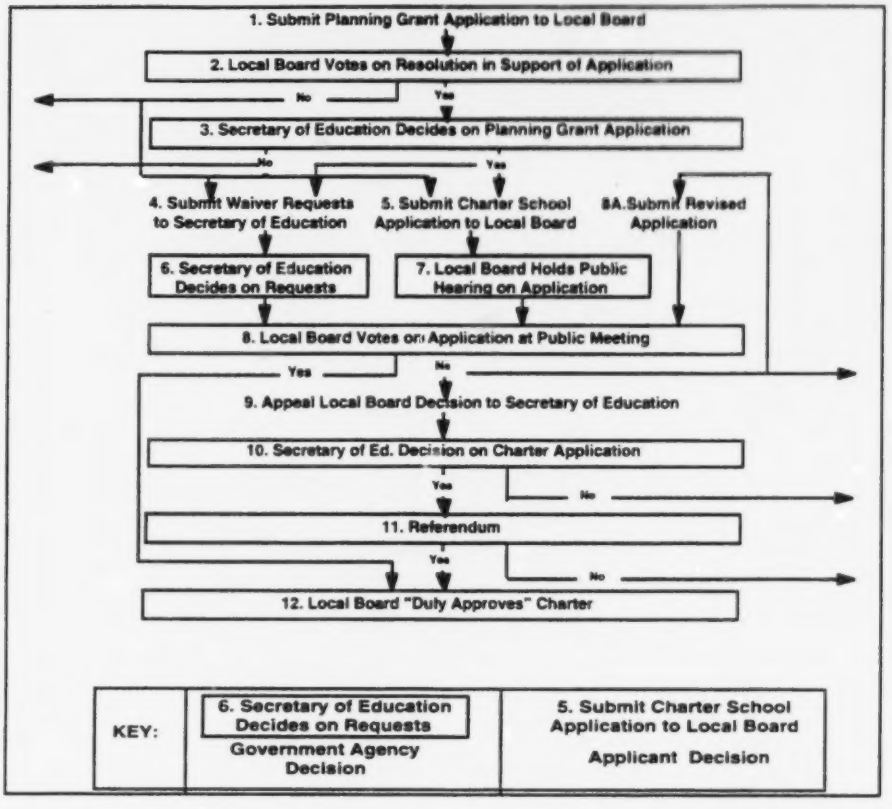
Under Section 24 of the Act, potential charter school operators are eligible for planning grants from the state Secretary of Education to support the development of charter applications. While charter applicants in other states have developed credible proposals with their members' own time and resources ("sweat equity") and little or no outside financial support, it is also true that many potential applicants lack the professional expertise that would improve the quality of their plans and which is available for a price. Applicant groups made up of teachers, parents and other members of the community who have no institutional history prior to their collective decision to explore pursuit of the charter option are especially likely to lack both expertise and money. Most applicants could make very good use of whatever financial resources the state might provide.

The planning grant application must explain how the applicant will address the criteria contained in Section 4 of the Act that must guide the school board in its decisions on charter applications. These include:

• "The demonstrated, sustainable support for the charter school plan by teachers, parents, other community members and students...." Where the

applicant proposes to convert an existing public school to charter status, at least 50 percent of the teachers and parents of children attending the school must sign a petition in favor of the application.

Figure 6.1. The Political Process of Charter School Formation



• "The capability of the charter school applicant, in terms of support and planning, to provide comprehensive learning experiences to students...."

• The extent to which the charter application considers required information discussed elsewhere in this Report concerning the proposed school's charter holder, grades, governance structure, mission, curriculum, assessment methods, school day and year, admissions and discipline policies, plans to achieve ethnic diversity, community involvement, financial plans, waivers from state Board of Education regulations, faculty, policies to assure reports on the

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criminal and child abuse history of employees, and such other information as the local school board may recquire.

• "The extent to which the charter school may serve as a model for other public schools."

The purpose of the planning grant is to enable potential charter applicants to address these issues in a comprehensive and detailed fashion. By submitting a planning grant application, potential charter applicants formally announce their intention to develop charter applications, provide the first official description of their proposed schools, and offer themselves to the political process. Moreover, in explaining how they would use the state's funds to complete their charter application, planning grant applicants will almost certainly provide early indications of their substantive approach to education, governance and accountability. This begins to define where the applicant will fit in local politics.

Before submitting planning grant applications, members of groups considering the charter concept are merely engaged in informal discussions. After submitting planning grant applications, potential applicants become an identifiable entity and its members will be considered "fair game" by local media, PTA's, teachers' and other school employees' unions, other interest groups and activists, the superintendent, and elected officials. The group, its members and the planning grant application will become part of local politics and of the calculations of those who participate in politics at the state level. The ability of group members to operate in this political environment will be a crucial factor in determining whether they receive a charter, the terms of that charter, the characteristics of their charter school, and the relationship between the school and the community. Members' political skills will also influence their own personal reputations and standing in their communities.

Step 2. The Local School Board Votes on a Resolution in Favor of the Planning Grant Application

Section 24 of the Act requires that planning grant applications include a copy of the resolution passed by a majority of the members of the local board of school directors indicating its support for the application. Without the support of the local board, the Secretary cannot issue a grant.

But the school board's action is of great importance to the potential charter school applicant for reasons that go beyond money. The vote on the planning grant constitutes a vote of confidence in the applicant as a potential charter

school operator and possibly a sign of the board's attitude toward the charter concept. A favorable vote suggests the board does not reject charter schools out of hand and is prepared to work with the applicant to develop an acceptable charter application. An unfavorable vote may be a rejection of the applicant, the applicant's basic concept of the school as outlined in the planning grant application, or the entire Charter School Act.

A charter school applicant probably should not submit a planning grant application to the local board until it understands the board's position on the charter school concept and the applicant. If the board is opposed to the concept, and/or to granting the applicant a charter, it will not vote to approve the charter applications. In that case, the potential charter applicant needs to consider if the Secretary of Education would be likely to submit the charter application to a referendum of the voters in the district and if the district's voters could be persuaded to override the board. (See Steps 9 through 11) If the prospects are poor, the potential applicant should not pursue a charter. If the prospects are good, the applicant may want to submit the planning grant proposal anyway, to establish a presence in local politics and to put the board in the position of having to defend its rejection of a high-quality proposal.

If the board is not opposed to the charter concept or the applicant, a planning grant application should not be submitted to the board until the applicant is confident that either a majority will vote to approve or the minority that will vote in favor is the largest possible. Before submitting their application for a vote, members of the applicant group and their allies should engage the local political community. The applicant's leaders should be prepared to discuss the application with individual members of the local board and groups of members, and with the superintendent and the teachers' union, and negotiate a mutually acceptable planning grant application. The applicant should mobilize supporters to bring public pressure to bear on school board members in favor of the proposal.

Step 3. The Secretary of Education Decides on the Planning Grant Application

The Secretary of Education is not obliged to provide planning grants, even if the local school board supports the application. Although at the time this report is being written it appears unlikely that the Secretary would reject a planning grant application supported by the local school board, the Secretary could use discretion in determining the size and scope of the grant. It is quite possible that the Secretary and those staff with primary responsibility for carrying out

his or her responsibilities will be predisposed towards some types of applicants or educational programs. These factors suggest that the application process will involve at least informal lobbying of the Secretary and staff by potential charter applicants, their supporters, and other interested parties operating at the state and local level. For this reason, charter applicants need to become aware of the attitudes and interests of the Secretary and staff, of the political environment in which they operate, and the forces and factors that influence their decision making.

Up to now the focus of this Report has been on the applicant's own unique place in the politics surrounding its local school boards. Now the applicant must pay attention to state politics and applicants in other school districts. If politics at the state-level supports the formation of charter school, charter school applicants will be better able to deal with local school boards. If politics at the state level is not favorable, applicants will find it is much harder to deal with school boards inclined against the charter concept.

Charter applicants will need to work together to create a favorable political climate in Harrisburg favorable to charter schools. They will need to pool their contacts to identify allies in the legislature, the Board of Education and other agencies, and the Governor's office; lobby key political officials; and counter the political opposition to charter schools. They will need to cordinate their capabilities and other resources to develop a strategy to deal with state media, including perhaps the identification of one or several spokespersons and discussions on potential opinion pieces for newspapers with statewide distribution. Just as individual members of applicant groups need to exercise discipline in their public statements and actions, putting the group's agreed position above their own personal opinions, the leaders of applicant groups will have to learn how to work as representatives of a larger movement that needs to speak with a common voice on matters critical to the success of the charter option in Pennsylvania.

Step 4. Charter Applicant Submits Waiver Requests to the Secretary of Education

A charter applicant proposing a charter that would include waivers from Board of Education regulations, as permitted by Section 14 of the Act, must submit waiver requests to the Secretary. Again, the procedures and criteria for the review of waiver requests have yet to be determined. Nevertheless, applicants should understand that they will need to work for waivers at two levels:

First, as a collective, applicant groups will need to create a climate in which the Board of Education and Secretary are prepared to consider waivers seriously and predisposed to grant them. This will require applicants to work together to identify the most important regulatory barriers to charter school operations and present a clear case for their waiver.

Second, each applicant will have to articulate the need for the specific waivers it requests clearly and persuasively and prepare to negotiate the scope and extent of waivers. Applicants must have a solid understanding of the influence each regulation and each waiver will have on their school's success. They must understand which waivers are essential and which can be given up in negotiations. And they must learn how to negotiate with an agency that is under no legal requirement to give what the applicants want.

Step 5. Charter Applicant Submits Applications to the Local School Board

While a charter applicant can choose not to seek a planning grant from the Secretary, and while not receiving a planning grant does not bar a group from applying for a charter, Section 4 of the Act requires that all applicants submit their charter applications to their local school board by "October 15 of the school year preceding the school year in which the charter school will be established."

As was discussed about planning grants, applicants should have a good idea of the local board's likely reaction to the charter concept and the specific application before the application is formally submitted. If the school board is opposed to the concept and/or the applicant, the applicant must decide whether the Secretary is likely to submit the application to a referendum and if the voters will override their board and approve the application. If one or both is not likely, the applicant probably should not proceed. If both are possible, the application should go forward with the objective of creating a situation most likely to improve the chances for those outcomes. If the board is truly open minded about the concept and the applicant, the applicant should not submit the application for a vote until a majority of the board is known to favor the proposal or until after negotiations make it clear that the applicant cannot obtain a majority without fatally compromising the mission or financial viability of the proposed school.

Step 6. The Secretary of Education Decides on Waiver Requests

Although the procedures and criteria by which the Secretary will consider and grant waivers remain to be developed by the state Board of Education, the Charter School Act provides some indication of the likely timing of waiver decisions. Section 14 states that waiver provisions "be contained in the signed, written charter developed" by the local board after the charter application is approved by either the board or a referendum. The practical effect of this requirement is that either the Secretary must decide on waiver requests before local boards vote on the application, or local boards must vote to grant charters contingent on the Secretary's decision to allow waivers contained in the application. This paper assumes that the local board will not vote on the charter application until after the Secretary decides on the waivers or indicates to the local board whether the waivers will be granted if the application is approved by the board or by referendum.

Step 7. The Local School Board Holds at Least One Public Hearing on the Charter Application

Section 4 of the Act requires the local board to hold at least one public hearing on the application within 30 days of receiving a charter application. The hearing will be a political event. The local media will cover it. Opponents to the charter school will testify against the concept, the application and the applicant. Some board members will use the meeting to state or suggest their attitude and those sitting on the fence will use it to help determine their position. Reports on the meeting will influence the informed public's attitude towards the charter school concept, the application and the applicant.

Consequently, school board hearings should be taken quite seriously. The applicant's presentation needs to summarize the application and communicate the image desired of the school and the applicant within the time allowed by the board. The applicant's approach needs to fit with the formality or informality of board proceedings. Materials should be developed that will help convey the essence of the proposal, summarize important financial information, and demonstrate how the application responds to the statute and to board members' concerns. Allies on the board should be given copies of prepared presentations and questions for opponents and supporters, and perhaps even expected answers. A concise description of the application should be available to the local media, and the applicant group's spokesperson should brief reporters before the event.

The person who will testify for the applicant group should be chosen with some care - for sensitivity to board decorum, communications skills, and the ability to stay cool under fire. The person who will testify on behalf of the group should practice his or her presentation. The applicant group should rehearse the hearing, asking some members or trusted friends to play the board and ask the kinds of questions that previous research of board members suggests are likely. Important supporters should be recruited to speak in favor of the application and put through the same process. The likely testimony of opponents should be considered, and appropriate responses integrated into the testimony of the applicant and supporters.

Everything should be done to present the image of a capable and confident applicant, well-prepared and qualified to operate a public school. This is particularly true of cases where the applicant knows the board will turn the application down. In these instances, it could be especially important to the outcome of any subsequent referendum campaign that the applicant fostered an image of competence which suggests that the board made a serious mistake.

Step 8. The Local School Board Votes on the Charter Application

According to Section 4, the local school board must vote on the charter application at a public meeting not less than 30 and not more than 60 days after the first public meeting on the charter application. The board is required to consider the approval criteria discussed in Step 1 and evaluate the application "in good faith," but is under no obligation to approve a charter. It must inform the applicant and the Secretary of Education of its decision," including reasons for denial and suggested remedial measures, if any." Approval of the charter application requires the affirmative votes of at least five board members. If the application is approved, the process moves immediately to the signing of a written charter by the entire board. (See Step 12 below.)

Up until the time when the local board actually votes on the proposal, the applicant should continue to assess board members attitudes, address their concerns, convince "fence sitters" to become supporters or stay neutral, and counter the attacks of opponents. The specific tactics - personal private discussions, point papers, letter writing, media interactions, the use of prominent persons - required to accomplish these goals will vary by case, but all will play a role. The applicant who has done the research, assessed support and opposition, organized supporters, and laid out a campaign strategy for

charter approval will be in the best position to recognize the tactical necessities and have the resources necessary to pursue those tactics.

Step 8A. The Charter Applicant May Revise and Resubmit the Application to the Local School Board

If the board does not vote to approve the charter, Section 4 leaves the disappointed applicant with three options:

- Drop out of the process and end the campaign for the charter school.
- Appeal to the Secretary (See Step 9).
- Revise and resubmit the application to the local board.

Where the local board has rejected the charter application without suggesting remedial measures, the applicant's choice is to appeal or drop out. An appeal is warranted if the applicant believes that the Secretary is likely to endorse the charter, that the application stands a good chance of approval by referendum, and that the applicant can find the financial and other resources necessary to sustain the campaign.

The applicant who has gone through the process of obtaining a planning grant and/or requesting waivers should be in a position to determine the Secretary's likely attitude toward the charter application. Deciding whether the application could win approval by referendum is likely to be a more complicated matter. The known support or opposition of prominent persons, political leaders, and citizens' and interest groups, provides important indications, and in small districts informal polling by members of the applicant group may provide a good indicator of voter support. But in larger districts, formal polls are probably advisable. A political campaign will cost real money; the sweat equity of members of the applicant group probably will not suffice to overcome the opposition of the board and other interest groups. Before that money can be raised, the applicant's potential financial backers will want to know the chances of victory. A poll will help identify general voter attitudes, the sources of actual and potential support and opposition, and provide the basis for estimates of the costs of a successful referendum campaign. The applicant will also need to research the costs of leaflets, newspaper and radio ads, mailings, placards and signage, campaign headquarters, phone banks, and volunteer and "get out the vote" coordination.

Where the local board has provided the applicant with a list of remedial measures in its written decision and indicated an interest in approving an

application amended along the lines of that list, serious consideration should be given to revising the application and resubmitting it for approval. The applicant first must consider the extent to which the revisions suggested by the board will constrain the proposed school's operation. Applicants cannot jeopardize their school's mission or its financial viability. Depending on the application, those criteria may leave quite a bit or very little for negotiation. (Which suggests that applicant's may wish to build into their proposal some "nice to have" features that neither turn the board against the applicant on the first reading of the application nor go to the heart of the applicant's concept for the charter school.)

Against this substantive but somewhat subjective assessment, the applicant must make a political judgment about the costs and prospects of appealing the original application to the Secretary and a referendum. If the suggested changes will not jeopardize the applicant's vision of the school or its chances of success, revision and re submission should be the clear choice. If the revisions will leave the school a shadow of the original proposal, the applicant must decide between dropping out and pursuing an appeal. In some cases, and particularly with the first charter applications, neither the influence of the revisions on school operations nor the political prospects of the original application will be clear cut.

Because the application submitted to the Secretary for the referendum process is the very same application rejected by the local board, the applicant may choose to revise and resubmit an application to the local board knowing that it will be rejected by the board. This strategy follows from an applicant's conclusion that the original application contains provisions that can be changed without jeopardizing the school's operations but, if left unchanged, are likely to prove offensive to the Secretary or to diminish the chances of success in the referendum. If the local board rejects the revised application because it has no intention of allowing the applicant to operate a school or because the revisions fall short of the board's suggestions, the applicant obtains two political benefits: the appearance of reasonableness - demonstrated by a willingness to compromise; and an application with broader voter appeal.

Step 9. The Charter Applicant May Appeal the Local School Board's Unfavorable Decision to the Secretary of Education

Should the applicant decide to appeal the local board's denial of the application to the Secretary, Section 4 provides no clear timeline for a decision. Assuming the applicant submitted the application in mid-October, it is quite

possible that the Secretary will not be ready to decide until February or even March of the following year, particularly if the application was submitted to the local board for reconsideration.

Where the applicant has decided to appeal, the political campaign for charter approval will operate at several levels. Because appellate bodies are generally reluctant to overturn the decisions of lower-level decision makers responsible for the direct supervision of administrative policies, appellants often carry a heavy burden of proof. In the case of charter schools, local boards will remain responsible for oversight of the charter schools in their districts. As a consequence, applicants will have to demonstrate a high degree of technical competence, local political support sufficient for the Secretary to override a local political body, and very probably sufficient support at the state level to justify the political cost of upsetting the local board's decision.

Again, the tactics of this campaign will vary. The applicant who has researched the local and state politics surrounding charter schools, lined up political and financial support, and laid out and implemented a campaign strategy will be in the best position to recognize the tactics required and follow through with the necessary actions.

Step 10. The Secretary Decides on the Charter Application

In deciding the appeal, Section 4 states that the Secretary is required to "consider the board's reasons for taking the action and shall be limited to upholding the board or calling a referendum on the question." The Charter School Act does not permit an applicant to amend the application rejected by the local board and present the revised application to the Secretary. The charter application considered by the Secretary must be precisely the same application rejected by the local school board.

If the Secretary upholds the local board's decision, the application is dead for that year. However, nothing prohibits the disappointed applicant from going through the charter process the following year with the same proposal, a revised version, or an entirely new application.

The Secretary may also decide to "submit the question of approval of a charter school application to the voters of the school district." The Act does not specify the criteria the Secretary must apply to make that determination. The Secretary is not required to determine whether he or she would have approved the application if he were a board member, although he could use that criteria. The Secretary could also choose to overturn board decisions only in the event

the board made a clear error or abused its discretion. Alternatively. the Secretary could make a broad policy decision that district voters should decide on charter school applications, and permit all, or all but the obviously unqualified applications, to go to the ballot.

The choice of criteria could be important to applicants. A policy to uphold board decisions except in cases of clear error or where the board has abused its discretion presents charter applicants with a virtually insurmountable hurdle, and will bar the possibility of a favorable decision by the voters. A policy that the Secretary will decide as if he were the local board will be more favorable to the qualified charter school operator who was denied a charter because the local board opposes charters or the applicant. Knowing that the Secretary will adopt this position will tend to make local boards look more favorably on qualified applicants. Even more pressure will be placed on local boards to treat charter applications carefully and fairly if the Secretary's policy is that applications denied by the local board shall be decided by referendum.

Potential charter school applicants across the state would seem to have a common interest in convincing the Secretary to adopt the third approach. Coordinated action towards this end will require the further development of organization, skills and discipline discussed under Step 3.

Step 11. The Question of Charter Approval is Decided by Referendum

Should the Secretary choose to submit the question of approving the charter school application to school district voters, Section 4 requires that he file a petition to place the question on the ballot with the county board of elections where the district is located. The Act requires that the referendum "be held at the next primary, municipal or general election not less than 30 days after the Secretary submits referendum petition to county board of elections" according to the Pennsylvania Election Code. (P.L.1333, No.320, June 3, 1937.) The Act does not specify a maximum period of time within which the referendum must be held, and does not authorize a special election. Consequently a vote on the application might not be held for months after the applicant's submission of the charter application to the local school board.

A referendum campaign will constitute a sustained drain of the applicant group's time and resources. Money will certainly be an issue. Continued polling may be required. It may be necessary to adjust political advertising to polling

results, unforeseen events, or opponent's ads. Several different leaflets may have to mailed.

But money may not be the most important issue. Political campaigns require many people. A campaign headquarters will have to be established and staffed. Rallies will be held at various times, requiring use permits and perhaps coordinated transportation. Volunteers will be needed to address envelopes, answer the phone, give people rides, go to city hall, show up for rallies, and get out the vote on election day.

The stress on the applicant group's members and leaders will be sustained and intense during this period. The charter school may be a highly divisive issue in the community. Dealing with the ridicule of neighbors and colleagues will not be easy. Applicants need to prepare themselves for the possibility that friends and social acquaintances will end those relationships because of the charter school proposal.

Step 12. A Written Charter is Approved and Signed by the Local School Board

Following approval of the application, "a written charter shall be developed which shall be duly approved by the local board." Whether the charter application is approved by the local board or referendum, the local board is obligated to develop, approve and sign a written charter. The written charter must contain the provisions of the charter application. When signed by the local board and the board of trustees of the charter school, the charter becomes legally binding on both, for a period of not less than three years and not more than five. It is renewable for five years.

While the Charter School Act does not give a local school board the power to alter the provisions of the application in the written charter, it appears that the board does have the right to establish the charter's term. In addition, Section 4 gives the board the power to establish its schedule of payments to the school, except that the first payment must be made before the first day of school. Section 13 reserves to the local school board the power to permit up to 25% percent of the school's teaching staff to be uncertified.

While it would appear that the Act allows the local board little discretion on the issuance or terms of the charter, that Step 12 is essentially ministerial in nature, andthat the political campaign is over once the referendum has been held, the charter applicant should not disband the campaign until the charter has been approved and signed, and should maintain some level of pressure to

see that the process is completed so as to give the applicant sufficient time to establish the new school.

7. Conclusions: Guiding Principles for Charter School Applicants

Match the scope of autonomy offered to Pennsylvania charter schools with the expertise necessary to exercise that autonomy responsibly.

The Pennsylvania statute offers charter schools a broad scope of autonomy. Charter school operators have the right to implement their approved educational program. To exercise this autonomy responsibly, charter applicants require access to expertise in curriculum and instructional strategies, assessment, special and bi-lingual education, and school administration. Operators control all the economic decisions of the school. To maintain a financially viable school, they must understand how to contract for real estate, staff, services, equipment, and materials; personnel management, financial planning and business administration. Charter schools operate in a complex legal environment as quasi-government organizations. Operators must understand laws governing decision making, accountability, admissions and public employment. Charter schools are also political campaigns, and applicants need people conversant in local politics, public relations, and campaign management.

There is no way that every type of expertise required to operate a charter school can be on the applicant team. The core of the applicant team should consist of generalists with operational experience in education and business, aided by an attorney prepared to develop an expertise in charter school law. The core members should know enough about their area to know what they do not know, to find experts, and to ask the right questions. This core team should recruit experts in such areas as commercial real estate, special education, accounting and financial planning, insurance, and all the other special problems discussed in this report, and integrate their advice into the charter application.

Realize that the skills required of the applicant group will change during the process of starting a charter school.

The first phase is one of "team building." The potential applicant must find the right people for the "core team"; persuade them to participate; and "network" to identify potential sources of political, monetary, and technical support. The core team and its key supporters must build a shared vision of the school's mission, including who it will serve, how it will approach learning and teaching, and the process of self-governance.

The second phase involves planning and writing the charter application. It is during this phase that the school's management structure will begin to take form. Leaders of the applicant team must manage an organizational structure dependent on consensus to accomplish its goals, yet they must propose a new management structure based on legal responsibility and some degree of role specialization that will assure smooth operation of a real school. They must understand how to build individual commitment to the school and learn how to accept and use outside help. At the same time they must keep to deadlines, incorporate good management practices into the school's design, and make effective use of specialized expertise.

The third phase involves politics and public relations. Applicants must take the proposed school to the local board, the Secretary and the public. They must be prepared to negotiate with government agencies and deal with political opposition. They will need to deal with the press and the local political establishment. The applicant group will need a spokesperson and a way to develop common positions on controversial matters, and the group's members will need to exercise discipline in making their own remarks. The application may go to a referendum, requiring the applicant to organize to "get out the vote.

The fourth phase is one of business management. After the charter is approved but before the school is financially viable, resources must be employed with great prudence. Someone or a small group will have to make crucial economic decisions about a school building, staff hires, purchases, loans, and contracting for support services. Clear lines of financial authority must be established, and responsibilities delegated with care.

The final phase is one of letting go. The applicant's leader and core team can't do it all. They need to recognize their skills and expertise, and limits. Above all leaders need to be able to distinguishing those areas that can and should be controlled from those that can and should be delegated. Leaders can never give up control where decisions have a direct influence on the school's mission or

financial viability. All else should be delegated. As the process continues and as the school and its staff matures more decisions can be given over to others.

View the charter application as a planning tool rather than a "hurdle" on the way to obtaining a charter.

The application required by the Charter School Act covers the major planning issues facing the applicant. It provides the basis for identifying requirements for specialized expertise, organizing working groups, and developing a work plan and timetable. The charter application should not be approached like a grant application. The minimum that needs to be said to obtain a charter might fall short of what needs to be considered to assure a viable school. Applicants should not simply promise more than they know they can reasonably deliver, although a certain amount of hyperbole is inevitable and perhaps even useful as a prod once the school is up and running. Applicants should spend time considering the principles, philosophy and goals, guiding their school but they should also delve deeper. Practical matters of cost and feasibility should be considered seriously, and the application revised accordingly.

Think of yourselves as trustees of state's responsibility for public education.

Charter schools are public schools operated by private entities. Through the Charter School Act, the legislature entrusts private individuals and groups to carry out the state's constitutional obligation to provide public education. Charter school applicants should honor this public trust and recognize its special burdens. The applicant should try to behave in the same way the law requires of the charter holder. Decisions should be made in the open and the applicant's records should be open to the public. Members of the applicant group should recognize and avoid potential conflicts of interest. Lawyers who help found the school probably should not become its counsel without an open bidding process. Teachers who found the school probably should not beboth board members and employees. Parents should not expect that working on the applicant group guarantees their child a place in the school. Charter schools are a public trust, not an opportunity for private advantage. Policy decisions should always be made in the best interests of the students and the future of the school, not the adults participating in the applicant group.

Appendix

A. The Charter School Act (HB 1834)[2]

AN ACT

Providing for the establishment of charter schools; providing for powers and duties of the Secretary of Education and the State Board of Education; providing for payments to charter schools; and requiring certain reports and recommendations.

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[2]Session of 1995, as amended on third consideration, House of Representatives, March 13, 1996.

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Section 25. Effective date.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short title.

This act shall be known and may be cited as the Charter School Act.

Section 2. Legislative intent.

It is the intent of the General Assembly, in enacting this act, to provide opportunities for teachers, parents, pupils and community members to establish and maintain schools that operate independently from the existing school district structure, as a method to accomplish all of the following:

(1) Improve pupil learning.

(2) Increase learning opportunities for all pupils.

(3) Encourage the use of different and innovative teaching methods.

(4) Create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site.

(5) Provide parents and pupils with expanded choices in the types of educational opportunities that are available within the public school system.

(6) Hold the schools established under this act accountable for meeting measurable academic standards approved by the State Board of Education and provide the school with a method to change from rule-based to performance-based accountability systems.

Section 3. Definitions

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context indicates otherwise:

"Charter school." An independent public school established and operated under a charter from the local board of school directors and in which students are enrolled or attend. A charter school must be a public, nonprofit corporation. Charters may not be granted to any for-profit entity.

"Local board of school directors." The board of directors of a school district in which a proposed or an approved charter school is located.

"Regional charter school." An independent public school established and operated under a charter from two or more local boards of school directors and in which students are enrolled or attend. A regional charter school must be a public, nonprofit corporation. Charters may not be granted to any for-profit entity.

"Secretary." The Secretary of Education of the Commonwealth.

"State board." The State Board of Education of the Commonwealth.

Section 4. Establishment of charter school.

(a) Establishment by teachers and parents. -- A charter school may be established by three or more teachers certified by the Commonwealth who will teach at the proposed charter school; ten or more parents or guardians of public school students who reside within the public school district from which the charter is being sought; any nonsectarian college, university or museum located in this Commonwealth; other corporation not-for-profit, as defined in 15 Pa.C.S. (relating to corporations and unincorporated associations) and which is nonsectarian; or any combination thereof.

(b) Conversion of existing public school. –

(1) The conversion of an existing public school to a charter school may also be initiated by three or more teachers certificated by the Commonwealth who will teach at the proposed charter school; ten or more parents or guardians of public school students who reside within the attendance boundaries of the public school proposed for conversion; any nonsectarian college, university or museum located in this Commonwealth; other corporation not-for-profit, as defined in 15 Pa.C.S. and which is nonsectarian; or any combination thereof.

(2) Those seeking to convert an existing public school to a charter school must also include in their application evidence that:

(i) not less than 50% of the teach staff in the school have signed a petition in support of the public school becoming a charter school; and

(ii) not less than 50% of the parents or guardians of pupils attending that public school have signed a petition in support of the school becoming a charter school.

(c) Submission of application. – An application to establish a charter school shall be submitted to the local board of school directors by October 15 of the school year preceding the school year in which the charter school will be established.

(d) Public hearing. – Within 30 days of receipt of an application, the local board of school directors in which the proposed charter school is to be located shall hold a AT LEAST ONE public hearing on the provisions of the charter application, under the act of July 3, 1986 (P.L.388, No. 84), known as the Sunshine Act. AT LEAST 30 DAYS MUST TRANSPIRE BETWEEN THE FIRST PUBLIC HEARING AND THE FINAL DECISION OF THE BOARD ON THE CHARTER APPLICATION.

(e) Approval by local board of school directors. --

(1) Not later than 60 days after the FIRST public hearing on the application, the local board of school directors shall grant or deny the application.

(2) A charter school application submitted under this act shall be evaluated in good faith by the local board of school directors based on criteria, including , but not limited o, the following:

(i) The demonstrated, sustainable support for the charter school plan by teachers, parents, other community members and students, including comments received at the public hearing held under subsection (d).

(ii) The capability of the charter school applicant, in terms of support and planning, to provide comprehensive learning experiences to students pursuant to the adopted charter.

(iii) The extent to which the application considers the information requested in section 6 and conforms to the legislative intent outlined in section 2.

(iv) The extent to which the charter school may serve as a model for other public schools.

(3) The local board of school directors, in the case of an existing school being converted to a charter school, shall establish the alternative arrangements for current students who choose not to attend the charter school.

(4) The local board of school directors and the board of trustees of the charter school shall establish a payment schedule for the school district funding, which shall provide for the school district to make an initial payment by the first day of classes of the charter school's school year.

(5) A charter application shall be deemed approved by the local board of school directors upon affirmative vote by at least five of the directors. Formal action approving or denying the application shall be taken by the local board of school directors at a public meeting, with notice or consideration of the application given by the board, under the Sunshine Act.

(6) Written notice of the board's action shall be sent to the applicant and the secretary. If the application is denied, the reasons for the denial and suggested remedial measures, if any, shall be clearly stated in the notice sent by the local board of school directors to the charter school applicant.

(f) Appeal of a denied application. – At the option of the charter school applicant a denied application may be revised and resubmitted to the local board of school directors, or the decision of the local board of school

directors, or the decision of the local board of school directors may be appealed to the secretary. When an application is revised and resubmitted to the local board of school directors, the board shall schedule AT LEAST ONE ADDITIONAL public hearing on the revised application. The board shall consider the revised and resubmitted application at the first board meeting occurring at least 30 days after receipt of the revised application by the board. The board shall provide notice of consideration of the revised application under the Sunshine Act.

(g) Appeal to secretary. -- The secretary shall review an appeal by a charter school applicant, or by the board of trustees of an existing charter school applicant, or by the board of trustees of an existing charter school, of a decision made by a local board of school directors not to grant, not to renew or to revoke a charter as provided in this section. The secretary in reviewing the appeal shall be required to consider the board's reasons for taking the action and shall be limited to upholding the board's decision or calling a referendum on the question to be submitted to the voters of the school district.

(h) Referendum called by secretary. --

(1) In the event the secretary decides to submit the question of the approval of charter school application, or is required to submit the question of renewal or revocation of a charter school, to the voters of the school district, he shall file a petition with the county board of elections of the county or counties wherein the school district is located to place the question submitted in the petition on the ballot. The county board of elections shall cause the question submitted by the secretary to appear on the ballot at the next primary, municipal or general election occurring not less than 30 days after the submission of the petition to the county board. The secretary shall frame the question to appear on the ballot in plain English and is such form that a yes vote is to approve the application for the establishment of a charter school and
a no vote is to reject the establishment of a charter school. A copy of the petition and question shall be transmitted to the local board of school directors and the charter applicants contemporaneously with the filing with the county board of elections.

(2) If a majority of the electors voting on the question vote yes, then a charter school shall be established by the local board of school directors under the terms and conditions set out in this act. If a majority of the electors voting on such questions vote no, then the local

board of school directors shall not establish a charter school based upon the application that was the subject of the referendum.

(3) Proceedings under this subsection shall be in accordance with the provisions of the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code.

(4) The secretary shall prepare a brief summary of the charter school issue to be voted upon which shall be available at the administrative offices of the local school district and at each polling place on election day. The entire application for the establishment of a charter school shall be made available for review by all residents of the school district at the administrative offices of the school district during normal business hours each day up to and including the day on which the referendum is conducted. Copies of the application may be obtained under rules established by the school district with all reasonable costs associated with such copying being borne by the recipient.

Section 5. Regional charter school.

(a) Establishment. – A regional charter school may be established by any nonsectarian college, university or museum located in this Commonwealth or other not-for-profit corporation, as defined in 15 Pa.C.S. (relating to corporations and unincorporated associations) and which is nonsectarian.

(b) Consideration and review. – The boards of school directors of two or more school districts may act jointly to receive and consider an application for a regional charter school, except that any action to approve an application for a charter or to enter into a written charter with an applicant shall require an affirmative vote of a least five of the directors of each of the districts acting jointly to approve an application or to sign a written charter for a regional charter school.

(c) Application of act. – The provisions of this act as it pertains to charter schools and a local board of school directors' powers and duties shall apply to regional charter schools, except as provided in subsections (a) and (b) or as otherwise clearly stated in this act.

Section 6. Contents of application.

An application to establish a charter school shall include all of the following information:

(1) The identification of the charter applicant.

(2) The name of the proposed charter school.

(3) The grade or age levels served by the school.

(4) The proposed governance structure of the charter school including a description and method for the appointment or election of members of the board of trustees.

(5) The mission and education goals of the charter school, the curriculum to be offered and the methods of assessing whether students are meeting educational goals. Charter school students shall be required to meet the same testing and academic performance standards established by law and regulations for public school students.

(6) The admission policy and criteria for evaluating the admission of students which shall comply with the requirements of section 11.

(7) Procedures which will be used regarding the suspension or expulsion of pupils.

(8) The plans which the school will use to achieve racial and ethnic diversity within the student body.

(9) Information on the manner in which community groups will be involved in the charter school planning process.

(10) The financial plan for the charter school and the provisions which will be made for auditing the school under the provisions of section 437 of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949.

(11) A description of and justification for any waivers or regulations which the charter school requests.

(12) A description of and address for the physical facility in which the charter school will be located.

(13) Information on the proposed school calendar for the charter school, including the length of the school day and school year.

(14) The proposed faculty.

(15) A report of criminal history record, pursuant to section 111 of the Public School Code of 1949, for all individuals seeking the charter who shall have direct contact with students.

(16) An official clearance statement regarding child injury or abuse from the Department of Public Welfare as required by 23 Pa.C.S. Ch. 63 Subch. C.2 (relating to background checks for employment in schools) for all individuals who shall have direct contact with students.

(17) Such other information as the local school board of directors may require.

Section 7. Term and form of charter.

Upon approval of a charter application under section 4, a written charter shall be developed which shall contain the provisions of the charter application and which shall be duly approved by the local board of school directors, or by the local boards of school directors in the case of a regional charter school, and the board of trustees of the charter school. This written charter, when duly signed by the local board of school directors, or by the local board of school directors in the case of a regional charter school, and the charter school's board of trustees shall act as legal authorization for the establishment of a charter school. This written charter shall be legally binding on both the local board of school directors and the charter school's board of trustees. The charter shall be for a period of no less than three, nor more than five years, and may be renewed for five-year periods upon reauthorization by the local board of school directors.

Section 8. Powers of charter schools.

(a) Specific powers. -- A charter school established under this act is a body corporate and shall have all powers necessary or desirable for carrying out its charter, including, but not limited to, the power to:

(1) Adopt a name and corporate seal; however, any name selected shall include the words "charter school."

(2) Sue and be sued, but only to the same extent and upon the same condition that a public entity can be sued.

(3) Acquire real property from public or private sources by purchase , lease, lease with an option to purchase or gift for use as a school facility.

(4) Receive and disburse funds for school purposes.

(5) Make contracts and leases for the procurement of services, equipment and supplies.

(6) Incur temporary debts in anticipation of the receipt of funds.

(7) Solicit and accept any gifts or grants for school purposes.

(b) General powers. – A charter school shall have such other powers as are necessary to fulfill its charter and which are not inconsistent with this act or regulations of the State Board of Education.

Section 9. Charter school requirements.

Charter schools shall be required to comply with the following requirements:

(1) A charter school shall be accountable to the parents, the public and the Commonwealth, with the delineation of that accountability reflected in the charter. Strategies for meaningful parent and community involvement shall be developed and implemented by each school.

(2) A charter school shall not unlawfully discriminate in admissions, hiring or operation.

(3) A charter school shall comply with all Federal and State laws, rules and regulations pertaining to public schools, except where the charter school has received a waiver of State regulations under this act.

(4) A charter school shall be nonsectarian in all operations.

(5) A charter school shall not provide any religious instruction, nor shall it display religious objects and symbols on the premises of the charter school.

(6) A charter school shall not advocate unlawful behavior.

Section 10. Facilities.

(a) Location. – A charter school may be located in an existing public school building, in a part of an existing public school building, in space provided on a privately owned site, in a public building or in any other suitable location.

(b) Exemption from regulations. – The charter school facility shall be exempt from public school facility regulations, except those pertaining to the health or safety of the pupils.

(c) Construction with public funds prohibited. – A charter school shall not construct a facility with public funds.

Section 11. Enrollment.

(a) Residents of school district. –

(1) The charter school shall enroll any pupil who is a resident of the school district in which the charter school is located and who submits a timely application unless the number of applications exceeds the capacity of a program, class, grade level or building. If the number of applications exceeds capacity, pupils shall be accepted by lot. A charter school shall not charge tuition to students who reside in the district.

(2) A regional charter school shall enroll any pupil who is a resident of a school district which is a signatory to its written charter and who submits a timely application unless the number of applications exceeds the capacity of a program, class, grade level or building . If the number of applications exceeds capacity, pupils shall be accepted by lot. A regional charter school shall not charge tuition to students who reside in such a school district.

(b) Discrimination prohibited.–

(1) A charter school shall not discriminate in its admission policies or practices on the basis of intellectual or athletic ability, measures of achievement or aptitude, status as a person with a disability, proficiency in the English language or any other basis that would be illegal if used by a school district.

(2) A charter school may limit admission to a particular grade level or areas of concentration of the school such as mathematics, science or the arts. A charter school may establish reasonable criteria

to evaluate prospective students which shall be outlined in the school's charter.

(c) Non resident students. -- If available classroom space permits, a charter school may enroll nonresident students on a space-available basis, and the student's district of residence shall permit the student to attend the charter school. The terms and conditions of the enrollment shall be outlined in the school's charter.

Section 12. Powers of board of trustees.

(a) Enumeration of powers. -- The board of trustees of a charter school shall have the authority to decide matters related to the operation of the school, including, but not limited to, budgeting, curriculum and operating procedures, subject to the school's charter. The board shall have the authority to employ, discharge and contract with necessary professional and nonlicensed employees subject to the school's charter and the provisions of this act.

(b) Members of local school boards. -- No member of a local board of school directors shall serve on the board of trustees of a charter school that is located in the member's district.

(c) Open meeting requirement. -- The board of trustees shall comply with the provisions of the act of July 3, 1986 (P.L.388, No.84), known as the Sunshine Act.

Section 13. School staff.

(a) Professional staff. -- At least 75% of the professional staff members of a charter school shall hold appropriate Pennsylvania certification. At the discretion of its board of trustees, up to 25% of the professional staff members of a charter school may be employed who do not hold appropriate Pennsylvania certification. Employees of a charter school may organize under the act of July 23, 1970 (P.L.563, No.195), known as the Public Employee Relations Act. The board of trustees of a charter school shall be considered an employer for the purposes of Article XI-A of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, upon formation of one or more collective bargaining units at the school. Collective bargaining units at a charter school shall be separate from any collective bargaining unit of the school district in which the charter school is located shall be separate from any other collective bargaining unit.

(b) Retirement and health benefits. -- All employees of a charter school shall be enrolled in the Public School Employees' Retirement System and the health benefits plan of the district in which the charter school is located. The Commonwealth shall make contributions on behalf of charter school employees and the charter school shall make any required employer's contributions on behalf of charter school employees in the manner provided for in 24 Pa.C.S. (relating to education). The charter school shall also make ary required employer's contribution to the district's health benefits plan.

(c) Leave of absence for public school employees. -- Any public school professional or temporary professional employee of a school district, intermediate unit or vocational-technical school may request a leave of absence for up to five years in order to work in a charter school. Approval for a leave shall not be unreasonably withheld. Professional or temporary processional employees on a leave of absence shall remain in and continue to make contributions to their retirement plan during the time of the leave and shall be enrolled in the health benefits plan of the district in which the charter school is located. The charter school shall make any required employer's contribution to the district's health benefit plan.

(d) Tenure. -- Temporary professional employees on a leave shall not accrue tenure in the public school system. Professional employees shall retain tenure in the school entity from which they came. Both temporary professional employees and professional employees shall continue to accrue seniority in the school entity from which they came if they return to that school entity when the leave ends.

(e) Return to public school employment. --

(1) Any temporary professional employee or professional employee who leaves or is dismissed from employment at a charter school shall have the right to return to a comparable position for which the person is properly certified in the public school district which granted the leave of absence. In the case where a teacher has been dismissed by the charter school, the district which granted the leave of absence is to be provided by the charter school with the reasons for such dismissal at the time it occurs.

(2) No temporary employee or professional employee who is leaving employment at a charter school shall be returned to a

position in the public school district which granted their leave of absence, until such public school district is in receipt of a current criminal history record under section 111 of the Public School Code of 1949, and the official clearance statement regarding child injury or abuse from the Department of Public Welfare as required by 23 Pa.C.S. Ch. 63, Subch. C.2 (relating to background checks for employment in schools).

(f) Report of criminal history records. -- All individuals who shall have direct contact with students shall be required to submit a report of criminal history record information as provided for in section 111 of the Public School Code of 1949, prior to accepting a position with the charter school. This subsection shall also apply to any individual who volunteers to work on a full-time or part-time basis at the charter school.

(g) Child abuse clearance statement. -- All applicants for a position as a school employee shall be required to submit the official clearance statement regarding child injury or abuse from the Department of Public Welfare as required by 23 Pa.C.S. Ch. 63 Subch. C.2.

Section 14. Waiver of regulations.

(a) General rule. --

(1) A charter school shall operate in accordance with its charter and the laws and regulations which govern other public schools.

(2) Notwithstanding paragraph (1), the secretary may exempt a charter school from State board regulations concerning public schools, except those pertaining to assessment, testing, civil rights and student health and safety, as contained in the signed, written charter developed under section 7.

(b) Procedures for granting waivers. -- The State board shall approve procedures for the granting of these waivers.

Section 15. Services to students with disabilities.

A charter school shall comply with all statutes and regulations of the Commonwealth concerning the provision of services to students with disabilities.

Section 16. Payment to charter schools.

(a) Initial pupil payments. -- During the first year of operations, the school district in which the charter school is located shall pay directly to the charter school for each resident pupil enrolled a tuition charge calculated as set forth in section 2561 of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949. The school district shall be charged for elementary pupils at a rate equal to the tuition charge for elementary pupils and for secondary pupils at a rate equal to the tuition charge for the district's secondary pupils, as defined in section 2501 of the Public School Code of 1949. The district of each nonresident pupil shall pay an amount equal to the tuition charge calculated for resident pupils.

(b) Calculation. – At the conclusion of its first year of operations, the charter school shall calculate its tuition. For the second and subsequent years of operations, the school district in which the charter school is located shall pay directly to the charter school the lesser of either its tuition charge or that calculated by the charter school as its tuition charge or that calculated by the charter school as its tuition. The district of each nonresident pupil shall pay the lesser of either the tuition charge calculated for resident pupils or the charter school's tuition.

(c) Accounting for students. -- A student enrolled in a charter school shall be included in the average daily membership of the student's district of residence for the purpose of providing basic education funding payments and special education funding under section 2509.5 of the Public School Code of 1949.

(d) Other payments. -- In addition to the payments provided for in subsections (a) and 9b), the school district of residence shall make payments for each student enrolled in a charter school on whose behalf the district received payments, as provided in section 2509.5 of the Public School Code of 1949, an amount equal to the proportionate share of such payments. A charter school shall also receive a proportionate share of any Federal funding for special education services for each exceptional child enrolled from the school district of residence. Payments shall be made under the schedule adopted under section 4 (e) (4).

(e) Property rights. – It shall be lawful for any charter school to receive, hold, manage and use, absolutely or in trust, any devise,

bequest, grant, endowment, gift or donation of any property, real or personal and/or mixed, which shall be made to the charter school for any of the purposes of this act.

(f) Solicitation of gifts prohibited. – It shall be unlawful for any trustee of a charter school, or any board of trustees of a charter school, or any other person affiliated in any way with a charter school to demand or request, directly or indirectly, any gift, donation or contribution of any kind from any parent, teacher or any other person affiliated with the charter school as a condition for enrollment and/or continued attendance of any pupil. Any donation, gift or contribution received by a charter school shall be given freely and voluntarily.

Section 17. Transportation.

Students who reside in the school district in which the charter school is located, or who are residents of a school district which is part of a regional charter school, shall be provided transportation to the charter school on the same terms and conditions as transportation is provided to students attending the schools of the district. Nonresident students shall be provided transportation under section 1361 of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949. Districts providing transportation to a charter school outside the district shall be eligible for payments under section 2509.3 of the Public School Code of 1949 for each public school student transported.

Section 18. Review committees.

In order to facilitate the consideration of complaints from individuals or groups concerning an alleged violation of the school's charter, a review committee shall be established for each charter school. The committee shall be comprised of eight members. Six members shall be appointed by the local board of school directors in which the charter school is located as follows: two charter school teachers, two charter school administrators and two parents of students enrolled in the charter school. The remaining members of the review committee shall be two members of the local board of school directors. The review committee shall make a recommendation to the board of trustees concerning the disposition of a complaint. If the individual or group which filed the complaint feels that the board of trustees has not adequately responded, the individual or group may petition the secretary for relief.

Section 19. Tort liability.

For purposes of tort liability, employees of the charter school shall be considered public employees and the board of trustees shall be considered the public employer.

Section 20. Annual reports and assessments.

(a) Annual assessment. – The local board of school directors shall annually assess whether each charter school is meeting the goals of its charter and shall conduct a comprehensive review prior to granting a five-year renewal of the charter. The local board of school directors shall have ongoing access to the records and facilities of the charter school to ensure that the charter school is in compliance with its charter and that State board regulations concerning assessment, testing, civil rights and student health and safety are being met.

(b) Annual report of charter school. – In order to facilitate the local board's review and secretary's report, each charter school shall submit an annual report no later than August 1 of each year to the local board of school directors and the secretary in the form prescribed by the secretary.

(c) Report and evaluation. – Six years following the effective date of this act, the secretary shall hold public hearings in various regions of this Commonwealth to receive input from members of the educational community and the public on the charter school program. The secretary shall submit to the Governor and the General Assembly a report on and an evaluation of the charter school program which shall include a recommendation on the advisability of the continuation, modification, expansion or termination of the program and any recommendations for changes in the structure of the program which the secretary deems advisable.

Section 21. Causes for nonrenewal or termination.

(a) General. – During the term of the charter or at the end of the term of the charter, the local board of school directors may choose to revoke or not to renew the charter based on any of the following:

(1) One or more material violations of any of the conditions, standards or procedures contained in the written charter signed pursuant to section 7.

(2) Failure to meet the requirements for student performance stated in the written charter signed pursuant to section 7.

(3) Failure to meet generally accepted standards of fiscal management.

(4) Violation of provisions of this act.

(5) Violation of any provision of law from which the charter school has not been specifically exempted.

(6) The charter school or its board of trustees has committed fraud on the local board of school directors.

(b) Notice of revocation or nonrenewal. -- Any notice of revocation or nonrenewal of a charter given by the local board of school directors shall state the grounds for such action with reasonable specificity and give reasonable notice to the governing board of the charter school of the date on which a public hearing concerning the revocation or nonrenewal will be held. The local board of school directors shall conduct such hearing, present evidence in support of the grounds for revocation or nonrenewal stated in its notice and give the charter school reasonable opportunity to offer testimony before taking final action. Formal action revoking or not renewing a charter shall be taken by the local board of school directors at a public meeting pursuant to the act of July 3, 1986 (P.L.388, No.84), known as the Sunshine Act, after the public has had 30 days to provide comments to the board.

(c) Appeal. -- The charter school may appeal the decision of the local board of school directors to revoke or not renew the charter to the secretary pursuant to the provisions of section 4. In the event the charter school subject to nonrenewal or revocation of its charter was established pursuant to the voter referendum provisions of section 4(h), the secretary shall submit the question of renewal or revocation to the voters and shall frame the question in such form that a "yes" vote will allow for the continuation of the charter school and a "no" vote will abolish it. A majority voting "no" shall be required to abolish the charter school.

(d) Emergencies. -- In cases where the health or safety of the school's pupils and/or staff is at serious risk, the local board of school directors may take immediate action to revoke a charter.

(e) Dissolution. -- When a charter is revoked or is not renewed, the charter school shall be dissolved.

(f) Disposition of pupils. -- When a charter is revoked or is not renewed, a student who attended the charter school may apply to another public school in the student's district of residence. Normal application deadlines will be disregarded under these circumstances. All student records maintained by the charter school shall be forwarded to the student's district of residence.

Section 22. Promulgation of regulations.

The State board shall promulgate rules and regulations which are necessary to effectuate the provisions of this act.

Section 23. Desegregation orders.

The local board of school directors of a school district which is operating under a desegregation plan approved by the Pennsylvania Human Relations Commission or a desegregation order by a Federal or State court shall not approve a charter school application if such charter school would place the school district in noncompliance with its desegregation order.

Section 24. Planning grants.

(a) Allocation. -- The secretary shall allocate planning grants to eligible applicants under section 4 from funds appropriated for this purpose. Grant applications shall be filed by a date determined by the secretary. The amount of a grant may vary depending on the size and scope of the planning needed by the applicant.

(b) Contents of application. -- The application shall address the manner in which the applicant plans to address the criteria established for charter schools in section 4.

(c) Support of application. -- The application shall include a copy of a resolution passed by a majority of the members of the local board of school directors of the school district in which the proposed charter school would be located, at a public meeting, indicating its support for the planning grant application.

Section 25. Effective date.

This act shall take effect immediately.